

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

MIAMI-DADE COUNTY
a Political Sub-Division of the
State of Florida

GENERAL JURISDICTION DIVISION

CASE NO.

Plaintiff,

vs.

CITY OF MIAMI,
a Municipal Corporation of the
State of Florida,

Defendant.

COMPLAINT FOR INJUNCTIVE RELIEF

COMES NOW, MIAMI-DADE COUNTY, by and through undersigned counsel, hereby brings this action for injunctive relief against Defendant, CITY OF MIAMI, and as grounds therefore states the following:

INTRODUCTION AND THE PARTIES

1. In this action, Plaintiff, MIAMI-DADE COUNTY (the “County”), seeks an Order preliminarily and permanently enjoining Defendant, CITY OF MIAMI (the “City”), from directly or indirectly: (a) interfering with the County’s exercise of its exclusive jurisdiction over all traffic engineering matters throughout the County and the removal of concrete barriers and other obstructions that modify, obstruct, or prevent the free flow of traffic on four municipal streets within the City as more specifically described herein; (b) causing, through the erecting of concrete barriers or otherwise, the closure of the said municipal streets without the County’s express and prior authorization; and (c) obstructing the lawful exercise of County jurisdiction over traffic in both incorporated and

unincorporated Miami-Dade County through the use of the City's employees and agents including but not limited to its police department.

2. Plaintiff, County, is a political subdivision of the State of Florida with exclusive jurisdiction over "the control of traffic in both the unincorporated and the incorporated areas of Dade County." *Miami Shores v. Cowart*, 108 So. 2d 468 (Fla. 1958).

3. Defendant, City, is a municipal corporation within Miami-Dade County, Florida.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to section 26.012(1)(3) and (c), Florida Statutes.

5. Venue is proper in this Court pursuant to section 47.011, Florida Statutes.

FACTS AND BASIS FOR RELIEF

6. On or about March 2, 2021, without prior notice to, or approval or authorization from, the County and in violation of Florida Statutes, the Home Rule Amendment and Charter for Miami-Dade County (the "Home Rule Charter"), the Code of Miami-Dade County (the "Code"), well-established Florida case law, and the Intergovernmental Agency Agreement between the City and County, the City erected, or caused to be erected, a certain number of Jersey K Rail and other obstructive barriers (the "concrete barriers") at four intersections in the Silver Bluff neighborhood in an incorporated area of the County; to wit, at those intersections lying at or near the cross sections of: (a) SW 22nd Street and SW 14th Avenue; (b) SW 23rd Street and SW 17th Ave; (c) SW 22nd Street and SW 16th Avenue; and (4) SW 22nd Street and SW 16th Court (the "obstructed intersections"). *See* Affidavit of Frank P. Guyamier, P. E., County

Engineer and Deputy Director of the County's Department of Transportation and Public Works ("DTPW"), attached hereto as Exhibit "A" at ¶ 3; *see also* Affidavit of Alfredo Ramirez III, Director of the Miami-Dade Police Department ("MDPD"), attached hereto as Exhibit "B" at ¶ 2.

7. The erecting of the concrete barriers at the obstructed intersections has had the effect of closing the streets in question to vehicular traffic. *See* Exhibit A ¶¶ 5-6.

8. The City's use and manner of installation of Jersey K Rail barriers (Jersey barriers), perpendicular to oncoming traffic and without sufficient reflectors to warn motorists at night, present an imminent threat to life, health, and safety of the traveling public. *See id.* ¶¶ 4-5.

9. Although required by applicable law, the City did not obtain any approvals from County for design, safety, and emergency access prior to erecting the concrete barriers, and the City provided no prior notice to the public. *See id.* ¶ 3.

10. Upon discovery of the City's unlawful actions at the obstructed intersections, County made several efforts to both advise City of the unlawful nature of the City's actions and sought a reasonable resolution without the need for judicial intervention. *See* March 3, 2021 letter from Miami-Dade County Mayor Levine Cava to Miami Mayor Francis Suarez attached hereto as Exhibit "C".

11. Because the obstructions created by the illegally erected concrete barriers present an ongoing public safety hazard to the residents and visitors of the County, DTPW dispatched staff escorted by MDPD officers, to remove the unauthorized concrete barriers from the obstructed intersections. *See* Exhibit A ¶ 3; *see also* Exhibit B ¶ 2.

12. During DTPW's attempts to remove the illegal concrete barriers from the obstructed intersections, police officers from the City arrived on the scene and instructed the DTPW employees to immediately stop their removal of the concrete barriers. *See id.* ¶ 3.

13. The MDPD Director then contacted City of Miami Interim Police Chief Ronald L. Papier. The Miami Interim Police Chief advised the MDPD Director of the City's intent to obstruct DTPW's lawful removal efforts, and that in the event the County was able to remove the barriers, City Police, with the use of City of Miami police vehicles would continue the obstruction of the subject streets. The MDPD Director determined it was necessary to halt the County's removal efforts in order to de-escalate the situation and prevent any further incidents from occurring. *See id.* ¶¶ 4-5.

14. Numerous provisions of the Florida Statutes, the Home Rule Amendment and Charter for Miami-Dade County (the "Home Rule Charter"), and the Code of Miami-Dade County (the "Code"), in addition to well-established Florida case law, provide that County approval must be obtained for a municipality to close a local municipal road.

15. For instance, section 125.01, Florida Statutes grants the legislative body of a county with, among other powers, the authority to "[p]erform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law." Fla. Stat. § 125.01(w).

16. Both the Florida Statutes and the Code declare it unlawful for any person or persons to willfully obstruct the free, convenient and normal use of any public street, highway or road, by impeding, hindering, stifling, retarding or restraining traffic or

passage thereon, or by endangering the safe movement of vehicles or pedestrians traveling thereon. *See* Fla. Stat. § 316.2045; Code § 30.388.12.

17. Art. VIII, s. 11(b) of the Florida Constitution of 1885, incorporated by reference in Art. VIII, s. 6(e) of the Florida Constitution of 1968 expressly and exclusively authorizes Miami-Dade County to “do everything necessary to carry on a central metropolitan government in Dade County.”

18. Under that Constitutional authority the electors of Miami-Dade County adopted Section 1.01(A)(1) of the Home Rule Charter which specifically empowers the Board to “[p]rovide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities . . . and develop and enforce master plans for the control of traffic and parking.” *Id.* §1.01(A)(1).

19. Section 1.01(A) of the Home Rule Charter also sets out the enumerated powers granted to the Board of County Commissioners (the “Board”), and Section 1.01(B) provides that each of the said enumerated powers “may be exercised in the incorporated and unincorporated areas, subject to the procedures herein provided in certain cases relating to municipalities.” *See* Home Rule Charter §§ 1.01(A) and 1.01(B).

20. Section 1.01(A)(21) of the Home Rule Charter empowers the Board to “[e]xercise all powers and privileges granted to municipalities, counties, and county officers by the Constitution and laws of the state, and all powers not prohibited by the Constitution or by this Charter.” *Id.* §1.01(A)(21).

21. The Board, pursuant to section 2-95.1 of the Code and the Home Rule Charter, authorized the County’s Traffic and Transportation Department (“Department”)

to perform these functions “in accordance with the policies adopted by the Board.” *See* Code § 2-95.1.

22. Specifically, the Department has the duty and responsibility to “provide, develop, maintain, improve, implement and enforce a comprehensive master plan for the control, regulation, and appropriate movement of traffic for Miami-Dade County, Florida, including both the incorporated and unincorporated areas thereof.” *See* Code §2-95.1(a).

23. This section further provides that the Department has exclusive jurisdiction over all traffic engineering matters, including the flow, regulation and movement of traffic and traffic control devices, throughout the unincorporated and incorporated areas of the County, with the exception of state highways. *See* Code § 2-95.1(d).

24. Indeed, municipalities have been expressly pre-empted from unilaterally exercising any such traffic engineering powers and functions or from interfering with the County’s traffic engineering functions. *See* County Code § 2-96.1.

25. On or about July 1, 2016, the County and City entered into an Intergovernmental Agency Agreement, in which both parties acknowledged that “pursuant to Section 2-96.1 of the Miami-Dade County Code, all traffic control and traffic engineering services in Miami-Dade County are under the exclusive jurisdiction of the County.” *See* July 1, 2016 Intergovernmental Agency Agreement attached hereto as Exhibit “D.”

26. On or about March 8, 2017, Miami City Attorney issued a legal opinion acknowledging that City may not restrict vehicular access on a City street if so ordered by the County to remove such access restriction. *See* Miami City Attorney Opinion dated March 8, 2017 attached hereto as Exhibit “E.”

27. The Florida Supreme Court, in *Miami Shores v. Cowart*, when addressing the issue of preemption, held that Miami-Dade County traffic regulation preempts and supersedes any municipal traffic regulation because a County “ordinance establishing uniformity of traffic control throughout the metropolitan area [] is specifically authorized by §1.01A(1) of the Home Rule Charter and is in accord with the intent and purpose of the constitutional authority granted by the Home Rule Amendment.” 108 So. 2d at 472; *see also City of Miami v. Metropolitan Dade County*, 407 So. 2d 243 (Fla. 3d DCA 1981) (“In *Miami Shores Village v. Cowart*, the Supreme Court found ample authority [to hold] traffic control to be a municipal function that could be most effectively carried on under a uniform plan of regulation applicable to the County as a whole.”).

28. Accordingly, performance by a municipality of traffic engineering functions, such as the erection of traffic calming devices that modify or temporarily prohibit the flow of traffic on a local municipal road without an Intergovernmental Agency Agreement with the County authorizing said installation, is in conflict with and disallowed by the County Code, contrary to Florida law, and in violation of the Miami-Dade County Home Rule Charter and the Florida Constitution. *See* Code §§ 2-95.1 and 2-96.1; Fla. Stat. § 316.2045; Code § 30.388.12; § 1.01(A), Home Rule Charter.

29. As of the time of filing of this Complaint, the concrete barriers remain at three of the four obstructed intersections, presenting an ongoing imminent threat to life, health, and safety of the traveling public. *See* Exhibit A ¶¶5-6.

**COUNT ONE
INJUNCTIVE RELIEF AGAINST CITY**

The County adopts and re-alleges paragraphs 1 through 29 as if fully set forth herein.

30. The elements for injunctive relief generally require the movant to prove each of the following:

- a) A likelihood of irreparable harm and the unavailability of an adequate remedy at law;
- b) A substantial likelihood of success on the merits;
- c) That the threatened injury to the petitioner outweighs any possible harm to the respondent; and
- d) That the granting of a temporary injunction will not disserve the public interest.

Florida High Sch. Activities Ass'n v. Kartenovich, 749 So. 2d 1290, 1291 (Fla. 3d DCA 2000).

31. However, where the government seeks an injunction in the exercise of its police power to enforce a proscription codified by law, the only element that need be proven is the second element, a substantial likelihood of success on the merits. *See Polk Cnty. v. Mitchell*, 931 So. 2d 922, 926 (Fla. 2d DCA 2006).

32. The substantial likelihood of success on the merits will be established once the County proves that the City is violating, or has violated, the Code.

33. By erecting the concrete barriers, and further, by preventing the County's removal of same, the City has and continues to violate the Code by infringing on the County's exercise of its exclusive jurisdiction over all traffic engineering matters, including the flow of traffic and traffic control devices, throughout the County. *See Home Rule Charter* §§ 1.01(A)(1) and (21), 1.01(B); Code §§ 2-95.1, 2-96.1.

34. There is no adequate remedy in law as the subject roads remain blocked and the unsafe, unilaterally installed concrete barriers remain in place and are an imminent threat to life, health, and safety, and irreparable harm will occur if injunctive relief is not

granted. Further, where the government seeks an injunction in the exercise of its police power, “any alternative legal remedy is ignored and irreparable harm is presumed.” *Metropolitan Dade County v. O’Brien*, 660 So. 2d 364, 365 (Fla. 3d DCA 1995).

35. The imminent threat of harm to the life and safety of the traveling public outweighs any possible harm to the City. In addition, an injunction merely requiring compliance with binding laws cannot be said to unduly harm the Defendant. *See Mitchell*, 931 So. 2d at 926.

36. The granting of a preliminary and permanent injunction will serve the public interest as the public has an interest in compliance with a County Ordinance. *Miami-Dade County v. Fernandez*, 905 So. 2d 213, 216 (Fla. 3d DCA 2005).

WHEREFORE, MIAMI-DADE COUNTY prays this Court enter an injunctive order:

- (a) preliminarily and permanently enjoining the City from directly or indirectly interfering with the County’s removal of concrete barriers and other obstructions that modify, obstruct, or prevent the free flow of traffic at the obstructed intersections;
- (b) preliminarily and permanently enjoining the City from causing, through the erecting of concrete barriers or otherwise, the closure of the municipal streets at the obstructed intersections without the County’s express and prior authorization;
- (c) preliminarily and permanently enjoining the City of Miami police department from obstructing the County’s enforcement of Florida law and County Code.

- (d) awarding County reasonable and necessary costs incurred for the removal of the concrete barriers from the obstructed intersections;
- (e) awarding County costs incurred for the filing, maintaining, and prosecution of this action; and
- (f) awarding such other and further relief as the Court deems just and proper.

Respectfully submitted,

GERALDINE BONZON-KEENAN
Miami-Dade County Attorney
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

By: /s/ Bruce Libhaber_____

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Debra Herman
Florida Bar No. 818658
Annery Pulgar Alfonso
Florida Bar No. 90854
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EXHIBIT “A”

and SW 22nd Street. (“Obstructed Streets”). The installation of the Concrete Barriers was not authorized by Miami-Dade County, and poses an imminent threat to the life, health, and safety of the traveling public for the reasons set forth herein, including both the type and location of such barriers, as well as the absence or inadequacy of proper signage, markings, and warnings. Upon learning of the installation of the Concrete Barriers, I recommended their removal based upon safety concerns.


4. The Concrete Barriers are known as Jersey K Rail barriers, typically used at construction sites and on bridge deck construction. Due to the inflexible nature of concrete, such barriers are not designed to be placed perpendicular to oncoming traffic. In the event that a vehicle strikes such an obstruction, it is likely that severe property or bodily damage will occur. The blunt ends of the Concrete Barriers observed in Silver Bluff are not protected with any form of crash cushions, which are typical in proper installations, and therefore, a vehicle could impact the end of the obstruction causing severe bodily harm if not a fatality. Thus, the regulation and rerouting of traffic, and closure of the road using Concrete Barriers, in the manner and for the purpose which they have been installed, is improper and dangerous.

5. Locationally, the Concrete Barriers were installed only one block south of Coral Way, parallel to Coral Way. Thus, a motorist traveling east on Coral Way and making a right turn onto the referenced streets immediately encounters, and is perpendicular to, the Concrete Barrier. The motorist has limited opportunity for the vehicle to accomplish an evasive maneuver to avoid head on impact with the Concrete Barriers, which is further exacerbated by the following conditions. I personally inspected the locations on March 6, 2021, and each of the Obstructed Intersections, in addition to the concrete barriers (three of which remain after one was removed by the County) have one or more of the following unauthorized, unsafe and dangerous

conditions: 1) utilization of vehicles, i.e. a John Deere tractor, a bobcat, and a City of Miami police car, as traffic control devices blocking the public road, or utilized as a maintenance of traffic device; 2) the absence of sufficient reflectors on the Concrete Barriers, including but not limited to the absence of reflectors when approaching from the residential side, which would be increasingly dangerous at night; 3) red diamond reflectors which have been installed with a post in the ground lacking a break away base connector, which if struck, could cause serious harm; and 4) warning signs installed in the roadway which incorrectly indicate which roads are closed (i.e. road closed sign on 17th Avenue which is not closed). The photographs which I took today depict examples of such conditions, as attached as Exhibit "A," noting that each intersection includes different deficiencies.

6. The Concrete Barriers and current road conditions and traffic control measures are extremely dangerous due to their material, location, placement, and lack of adequate and required signage and markings. They should immediately be removed to eliminate the current imminent danger posed to the travelling public.

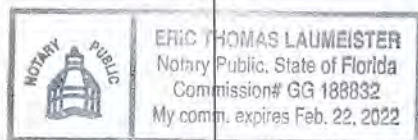
FURTHER AFFIANT SAYETH NAUGHT.




FRANK P. GUYAMIER

SWORN TO AND SUBSCRIBED before me by means of physical presence or ___
online notarization, this 6th day of March, 2021, by Frank Guyamier who is
personally known to me () or who produced identification FL DRIVERS License () , who
acknowledged that she signed the foregoing Affidavit and that the statements therein contained
are true and correct to the best of her knowledge.

Witness my hand and official seal at Miami-Dade County, Florida, this 6th day of
March, 2021.




Name Printed Eric Laumeister
NOTARY PUBLIC, State of Florida
at Large

My commission expires: Feb 22 2022











EXHIBIT “B”

4. Upon learning of the incident, I called the City of Miami Interim Police Chief, Ronald L. Papier, who informed me that he had been instructed to ensure that the County did not remove the concrete barrier obstructions from the referenced streets.

5. In light of the mobilization of the City's police officers, and Chief Papier's statements that their orders were to stop the removal and ensure that the roads remained closed, including blocking the roadway with City police vehicles if necessary, I determined that it was necessary to stop such removal at that point in order to de-escalate the situation and to prevent any further incident.

FURTHER AFFIANT SAYETH NAUGHT.

Alfredo Ramirez III
ALFREDO RAMIREZ III

SWORN TO AND SUBSCRIBED before me by means of ___ physical presence or online notarization, this 5th day of March, 2021, by Alfredo Ramirez III, who is personally known to me () or who produced identification FL D.L. , who acknowledged that she signed the foregoing Affidavit and that the statements therein contained are true and correct to the best of her knowledge.

Witness my hand and official seal at Miami-Dade County, Florida, this 5th day of March, 2021.

Name Printed Lisandra Diaz
NOTARY PUBLIC, State of Florida
at Large

My commission expires:



Online Notary Public. This notarial act involved the use of online audio/video communication technology.

EXHIBIT “C”



DANIELLA LEVINE CAVA
MAYOR
MIAMI-DADE COUNTY

March 3, 2021

3500 Pan American Drive
Miami, FL 33133

Dear Mayor Suarez:

Attached please find a legal opinion from the County Attorney's Office outlining the County's requirements for approval of traffic modifications in Miami-Dade County. I have expressed my desire to work collaboratively with all of our municipalities on traffic concerns and any other issue we can work together on to address the needs of our constituents. While we must operate within the current legal framework outlined in the attachment, it is my intention to revisit those rules established by Miami-Dade County with ample input from our municipal partners and our community.

For one, I have directed The Department of Transportation and Public Works (DTPW) to update the Traffic Flow Modification Manual to provide a much more abridged and flexible set of rules for the County and partner cities to follow. This was requested of the Board of County Commissioners through a resolution sponsored by Commissioners Higgins and Gilbert on March 2nd as well. The current traffic flow modification Manual was last reviewed and approved by the Board of County Commissioners back in 2009. DTPW is now working to standardize the process and criteria for implementing traffic flow modifications, while also providing greater design flexibility and more robust community involvement. The update that is currently underway will compress the process into six steps, compared to the current process' two phases and a combined twenty-two steps. The new manual will also provide a toolbox of traffic flow modification measures that cities could implement through an interlocal agreement with the County. I look forward to reviewing these proposed changes with you soon.

Additionally, the County had been working with several of our municipal partners, including the City of Miami, through an established "pilot project" program for traffic modifications on municipal streets. I would like to re-start the program that had been suspended under the last Administration, but with a clear set of rules for how we can work together to find solutions that ensure public safety and mobility.

In the meantime, I must insist that the City of Miami immediately remove any and all roadway barricades and barriers installed without going through the approved review process, including an interlocal agreement with the County. As we made clear last night to your City Manager, these impromptu barricades are creating a clear safety hazard for the traveling public.

I look forward to working on constructive and collaborative solutions to our community's challenges together.

Sincerely,

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Memorandum



Date: March 3, 2021

To: Jimmy Morales
Chief Operations Officer, Office of the Mayor

From: Debra Herman
Assistant County Attorney

Subject: Legal Guidance Regarding Road Closures

You have asked whether a municipality may unilaterally close a local municipal road in order to modify the flow of traffic in the absence of approval by Miami-Dade County (the “County”). Your question is answered in the negative. As set forth below, the Miami-Dade County Home Rule Charter (the “Home Rule Charter”), the Code of Miami-Dade County, Florida (the “Code”), and Florida caselaw provide that County approval must be obtained for a municipality to close a local municipal road.

The Home Rule Charter empowers the Board of County Commissioners (the “Board”) to “[p]rovide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities . . . and develop and enforce master plans for the control of traffic and parking.” See Home Rule Charter §1.01(A)(1).¹ The County has exclusive jurisdiction over all traffic engineering matters, including the flow, regulation and movement of traffic and traffic control devices, throughout unincorporated and incorporated areas of the County, with the exception of state highways. See County Code § 2-95.1(d). Municipalities are expressly prohibited from unilaterally exercising any such powers and functions or from interfering with the County’s traffic engineering functions. See County Code § 2-96.1.

While the County, through its Department of Transportation and Public Works, retains exclusive jurisdiction over the permanent closure of access to any road or street, there are certain other traffic engineering functions that may be performed by a municipality pursuant to an agreement with the County. See *id.* If a municipality wishes to perform certain other traffic engineering functions on local municipal streets, such as the installation and maintenance of barricades, pavement markings, traffic maintenance and traffic calming devices, the Code provides that such actions would first require that the municipality enter into an Intergovernmental Agency Agreement with the County that would address, among other things, the approval, installation, and maintenance of such devices. See *id.* The County Mayor may

¹ The Florida Supreme Court, in *Miami Shores v. Cowart*, when addressing the issue of preemption, found that Miami-Dade County traffic regulation preempts and supersedes any municipal traffic regulation because a County “ordinance establishing uniformity of traffic control throughout the metropolitan area [] is specifically authorized by §1.01A(1) of the Home Rule Charter and is in accord with the intent and purpose of the constitutional authority granted by the Home Rule Amendment.” 108 So. 2d 468, 472 (Fla. 1958); see also *City of Miami v. Metropolitan Dade County*, 407 So. 2d 243 (Fla. 3d DCA 1981) (“In *Miami Shores v. Cowart*, the Supreme Court found ample authority [to hold] traffic control to be a municipal function that could be most effectively carried on under a uniform plan of regulation applicable to the County as a whole.”)

authorize such Intergovernmental Agency Agreements for municipal streets. *Id.* However, the performance by a municipality of traffic engineering functions, such as the erection of traffic calming devices which modify or temporarily prohibit the flow of traffic on a local municipal road without an Intergovernmental Agency Agreement with the County, would be in conflict with and disallowed by the County Code.

EXHIBIT “D”

CITY OF MIAMI

AMENDMENT NO. 1 TO INTERGOVERNMENTAL AGENCY AGREEMENT

WITH MIAMI-DADE COUNTY

TO PERFORM TRAFFIC ENGINEERING FUNCTIONS

This Amendment No. 1 to the Intergovernmental Agency Agreement dated July 21, 2015 (the "Agreement") between the **CITY OF MIAMI, FLORIDA**, a municipal corporation of the State of Florida ("City"), and **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, Miami-Dade County (the "County") providing for the City to perform Traffic Engineering Functions ("Services") is entered into this 1st day of July, 2016.

RECITALS

WHEREAS, pursuant to Section 2-96.1 of the Miami-Dade County Code, all traffic control and traffic engineering services in Miami-Dade County are under the exclusive jurisdiction of the County; and

WHEREAS, on December 11, 2014, pursuant to City Resolution R-14-0473, the City and the County entered into an Intergovernmental Agency Agreement for the City to perform certain traffic engineering functions; and

WHEREAS the City Commission has adopted Resolution No. 16-00389 attached hereto as Exhibit "A" and by reference made a part thereof, authorized its officer(s) to enter into amend the Agreement.

NOW THEREFORE, in consideration of the foregoing, the parties hereby amend the Agreement as follows:

1. Item 2.

The City may install and maintain the following designated types of traffic calming devices, and/or signs (collectively the "Traffic Calming Devices") and only on those local municipal streets operated and maintained by the City within its boundaries, and not less than 250 feet from existing traffic signals, County roadways, State roadways and the boundary of City limits; or within school zones, or adjacent to bicycle facilities or hospitals:

- a) Traffic Circles
- b) Speed Humps
- c) Historic Street Name Signs
- d) In-Street Pedestrian Crossing Signs
- e) Raised Intersections

2. **Item 4.**

Any such Traffic Calming Devices may be installed on local municipal streets only after sealed and signed design plans have been reviewed and received written approval by the City, through its City Manager or his/her designee. Provided that such design plans utilize the standard County design attached as Exhibit "B," or the standard City design attached as Exhibit "C" as may be applicable, no additional review or approval by the Department of Transportation and Public Works (DTPW) shall be required before installation. To the extent that design plans deviate from the standard design attached as Exhibits "B" or "C", a copy of such design plans shall be submitted to DTPW for its review and written approval.

Item 7.

The City assumes sole and complete liability for any and all accidents, damages, claims, and/or injuries which may or are alleged to occur or arise out of the installation, operation or maintenance of said Traffic Calming Devices, and hereby indemnifies and saves harmless the County from any and all claims and damages arising from such installation, operation or maintenance of the Traffic Calming Devices. All Traffic Calming Devices installed by the City in accordance with this Agreement shall conform to the applicable requirements established by the following publications including latest revisions:

Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation Federal Highway Administration

Standard Highway Signs, U.S. Department of Transportation, Federal Highway Administration

A Policy on Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials (AASHTO)

Roundabouts: An Informational Guide, Federal Highway Administration, U.S. Department of Transportation

Florida Roundabout Guide, Florida Department of Transportation

Florida Department of Transportation's Standard Specifications for Road and Bridge Construction

Florida Bicycle Facilities Planning and Design Handbook, Florida Department of Transportation

Miami-Dade County Public Works Standard Details Manual, or any other comparative criteria available to municipalities which has been approved by the County

Miami-Dade County Traffic Flow Modification(s)/Street Closure Procedure, Revised January, 2009, Exhibit A

All other terms and conditions of the Agreement are in operative force and effect and remain unchanged.

IN WITNESS WHEREOF, the City and the County have set their hands the day and year above written.

ATTEST:

HARVEY RUVIN, CLERK

By: [Signature]
County Deputy Clerk

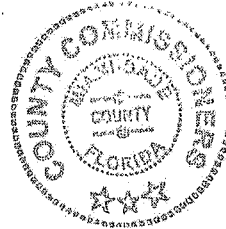
(Affix County Seal)

Approved as to form and legal sufficiency:

[Signature]
Assistant County Attorney

MIAMI-DADE COUNTY

By: [Signature]
County Mayor



THE CITY OF MIAMI, FLORIDA

ATTEST:

CITY OF MIAMI, FLORIDA, a municipal Corporation of the State of Florida

By: [Signature]
Todd B. Hannon, City Clerk

By: [Signature]
Daniel J. Alfonso, City Manager

(Affix City Seal)

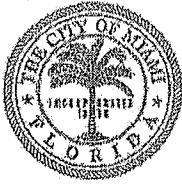
APPROVED AS TO LEGAL FORM CORRECTNESS:

APPROVED AS TO INSURANCE REQUIREMENTS:

By: [Signature]
Victoria Méndez, City Attorney

By: [Signature]
Ann-Marie Sharpe, Director
Risk Management Department

EXHIBIT A



City of Miami
Legislation
Resolution

City Hall
3500 Pan American
Drive
Miami, FL 33133
www.miamigov.com

File Number: 16-00389

Final Action Date:

A RESOLUTION OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE INTERGOVERNMENTAL AGENCY AGREEMENT, EXECUTED JULY 21, 2015, IN SUBSTANTIALLY THE ATTACHED FORM, BETWEEN THE CITY OF MIAMI ("CITY") AND MIAMI-DADE COUNTY, TO PERFORM CERTAIN ADDITIONAL TRAFFIC ENGINEERING FUNCTIONS WITHIN LOCAL MUNICIPAL STREETS OPERATED AND MAINTAINED BY THE CITY.

WHEREAS, on December 11, 2014, the City Commission adopted Resolution No. 14-0473, authorizing the City Manager to execute an Intergovernmental Agency Agreement ("Agreement") with Miami-Dade County ("County"), to allow the City of Miami ("City") to install and maintain designated Traffic Calming Devices and/or signs, which include traffic circles, speed humps, historic street name signs, and in-street pedestrian crossing signs (collectively the "Traffic Calming Devices") within local municipal streets operated and maintained by the City; and

WHEREAS, on July 21, 2015, the City entered into the Agreement with the County, which also authorized the City to perform such traffic engineering studies to determine the feasibility of utilization of certain Traffic Calming Devices; and

WHEREAS, the City desires to install raised intersections as an additional optional Traffic Calming Device, which will be maintained under the provisions of the Agreement; and

WHEREAS, the City desires to obtain additional operational choices in the design, construction, installation, and maintenance of the allowable Traffic Calming Devices under the provisions of the Agreement, and increase the efficacy of the approval process involved; and

WHEREAS, the execution of Amendment No. 1 to the Agreement, in substantially the attached form, if approved by the County, will give the City enhanced responsibilities and jurisdiction over the installation, maintenance, and use of certain Traffic Calming Devices, precluding the review and approval process by the County as described in the existing Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Resolution are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The City Manager is authorized {1} to execute Amendment No. 1 to the Agreement, in substantially the attached form, between the City and the County, to perform certain additional traffic engineering functions within local municipal streets operated and maintained by the City.

Section 3. This Resolution shall become effective immediately upon its adoption and signature of the Mayor. {2}

APPROVED AS TO FORM AND CORRECTNESS:


VICTORIA MÉNDEZ
CITY ATTORNEY

Footnotes:

{1} The herein authorization is further subject to compliance with all requirements that may be imposed by the City Attorney, including but not limited to those prescribed by applicable City Charter and Code provisions.

{2} If the Mayor does not sign this Resolution, it shall become effective at the end of ten (10) calendar days from the date it was passed and adopted. If the Mayor vetoes this Resolution, it shall become effective immediately upon override of the veto by the City Commission.

EXHIBIT “E”

**CITY OF MIAMI
OFFICE OF THE CITY ATTORNEY
MEMORANDUM**

TO: Daniel J. Alfonso, City Manager
FROM: Victoria Méndez, City Attorney
DATE: March 8, 2017
RE: Temporary Access Restriction of City Street
Matter ID No.: 17-388

You have asked whether the City has the ability to temporarily restrict vehicular access to a City street pending final closure by Miami-Dade County (“County”) through the use of Jersey barriers.

SHORT ANSWER

Yes, temporarily, pending final closure by the County or an order by the County to remove such access restriction.

ANALYSIS

The City of Miami is not precluded from the use of Jersey barriers to temporarily restrict vehicular access to a City street because such barriers are not traffic control devices subject to the County’s exclusive jurisdiction. The County has exclusive jurisdiction over all traffic control devices in the County, whether in municipalities or unincorporated areas.¹ An official traffic control device is defined as, “All signs, signals, markings, and devices, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of **regulating, warning, or guiding traffic** [emphasis added].”² The proposed Jersey barriers are not being used to warn traffic. Further, the barriers do not guide traffic. The barriers only purpose is to prohibit vehicular traffic at a particular location.

The barriers do not “regulate” traffic as contemplated by state law because state law recognizes a distinction between the powers of local governments, as it pertains to their police powers over streets within their respective jurisdictions. Section 316.008(1), Fla. Stat., provides that, “The provisions of this chapter [316 – “State Uniform Traffic Control”] shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from: [various powers reserved to local

¹ Sec. 2-96.1, Miami-Dade County Code.

² Sec. 316.003(44), Fla. Stat.

governments]”³ Seven (7) of the enumerated powers granted to local governments mention both prohibition and regulation.⁴ However, other powers only allow for regulation, not prohibition.⁵

Because there is a clear distinction between regulating and prohibiting activity on public streets and because the proposed Jersey barriers neither warn, guide, or regulate vehicular access, they are not a traffic control device within the meaning of the County Code. The barriers, if implemented, temporarily prohibit, not regulate, vehicular access. Further, such action is “within the reasonable exercise of the police power” of the City as its purpose is to maintain the health, safety, and welfare of residents and visitors (both pedestrian and within vehicles) where the barriers are to be erected. Therefore, the barriers are allowed on a temporary basis pending final closure by the County or an order from the same to remove the barriers.

³ Sec. 316.008(1), Fla. Stat.

⁴ See e.g. Sec. 316.008(1)(a), Fla. Stat., (“Regulating or prohibiting stopping, standing, or parking.”), Sec. 316.008(1)(c), Fla. Stat., (“Regulating or prohibiting processions or assemblages on the streets or highways, including all state or federal highways lying within their boundaries.”), Sec. 316.008(1)(i), Fla. Stat., (“Regulating or prohibiting the turning of vehicles or specified types of vehicles.”), Sec. 316.008(1)(m), Fla. Stat., (“Prohibiting or regulating the use of controlled access roadways by any class or kind of traffic.”), and Sec. 316.008(1)(n), Fla. Stat., (“Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic.”).

⁵ See e.g. Sec. 316.008(1)(h), Fla. Stat. (“Regulating the operation of bicycles.”) and Sec. 316.008(1)(r), Fla. Stat. (“Regulating pedestrian crossings at unmarked crosswalks.”).