

**RESOLUTION NO. 09 - 30**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA PERTAINING TO THE PENDING LITIGATION STYLED: CITY OF DORAL V. MIAMI-DADE COUNTY, CASE NO. 3D08-1725; RELATING TO THE CITY'S CHARTER; PROPOSING ELIMINATION OF MITIGATION PAYMENTS TO MIAMI-DADE COUNTY UNDER CERTAIN CONDITIONS; PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City is currently a party to pending litigation styled *City of Doral v. Miami-Dade County*, Case No. 3D08-1725 in the Third District Court of Appeal pertaining to the payment of mitigation fees (the "pending litigation"); and

**WHEREAS**, in the Incorporation/Annexation and Mitigation Workshop of the Governmental, Operations and Environment Committee of the Board of County Commissioners, the City of Doral, the Town of Miami Lakes and the Village of Palmetto Bay discussed the phasing out of mitigation payments to the County, which was voted upon by the electors as a pre-agreed condition contained in their respective municipal charters; and

**WHEREAS**, the Miami-Dade Board of County Commissioners expressed its intent to phase out mitigation through the adoption of Resolution R-508-07, and more specifically expressed its plan to do so under Resolution 1268-08, dated November 20, 2008; and

**WHEREAS**, the County Resolution 1268-08 requires the City to:

1. Make payment for fiscal year 2006-2007 equal to one mill of the value of taxable real property within the boundaries of the City on the date the incorporation was approved, which amount equals \$5,546,632;
2. Make payment for fiscal year 2007-2008 equal to the mitigation payment due for fiscal year 2006-2007, as adjusted by the CPI, which amount equals \$5,779,590;

3. Make payment for fiscal year 2008-2009 equal to the mitigation payment due for fiscal year 2007-2008, as adjusted by the CPI, which amount equals \$6,010,774;
4. Make payment for fiscal year 2009-2010 equal to the mitigation payment due for fiscal year 2008-2009, as adjusted by the CPI, which amount is estimated to equal \$6,251,205;
5. Eliminate the "Most Favored Nation Status" as it applies to the City's contribution to the Municipal Services Trust Fund (Section 9.8 of the City's Charter);
6. Prepare a ballot question (subject to approval of the ballot question by the County Attorney) authorizing an amendment to the City's Charter through a special election eliminating the obligation to pay to the County any mitigation fees for fiscal years subsequent to fiscal years 2009-2010, so long as the modification eliminates the Most Favored Nations status as part of its Charter as it applies to the City's contribution to the Municipal Services Trust Fund; and
7. Voluntarily dismiss with prejudice the pending litigation with such dismissal to be held in escrow by the County Attorney pending the actual occurrence of the special election.

**WHEREAS**, as part of the phase out of the City's mitigation payments, the County has decreased the calculation of payments charged to Doral to one mill; and

**WHEREAS**, the County has additionally offered to pay the cost of the special election in the form of a mail ballot election; and

**WHEREAS**, the Mayor and City Council desire to move forward with the settlement of the pending litigation and to coordinate the Charter Amendments and special election needed to approve same;

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** **Direction Regarding Pending Litigation.** The City Council directs the City Manager, City Attorney and City Clerk to take all necessary steps to:

1. Prepare ballot text amending the City's Charter to eliminate the payment of future mitigation fees effective for fiscal year 2010-2011 and to modify the City's Most Favored Nations status relating to the Municipal Services Trust Fund (the "Charter amendments");
2. Coordinate with the County and the Supervisor of Elections the scheduling of a special election mail ballot for the Charter amendments to be paid for by the County;
3. Negotiate an escrow agreement with the County Attorney for fiscal year 2006-2007, 2007-2008 and 2008-2009 mitigation fees in the amount of \$17,336,996 to provide that the funds shall only be held in escrow by the County Attorney and released to the County upon the holding of the special election;
4. Make payment for mitigation fees for fiscal year 2009-2010 in an amount estimated to equal \$6,251,205 to made on or before September 30, 2010; and
5. Prepare a Stipulated Settlement for Voluntary Dismissal of the pending litigation which will be effective and filed with the court(s) only after the special election is held.

**Section 3.** This resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Councilwoman Ruiz who moved its adoption. The motion was seconded by Councilman Van Name and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Michael DiPietro	Yes
Councilmember Peter Cabrera	Yes
Councilwoman Sandra Ruiz	Yes
Councilmember Robert Van Name	Yes

PASSED AND ADOPTED this 11<sup>th</sup> day of March, 2009.

  
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JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
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BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE CITY OF DORAL:

  
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JOHN J. HEARN, CITY ATTORNEY