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RESOLUTION NO. 09-30

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE PENDING LITIGATION STYLED; VILLAGE OF PALMETTO BAY V. MIAMI-DADE COUNTY, CASE NO.: 08-14156 CA 27; RELATING TO THE VILLAGE'S CHARTER; PROPOSING ELIMINATION OF MITIGATION PAYMENTS TO MIAMI-DADE COUNTY UNDER CERTAIN CONDITIONS; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Eugene P. Flinn, Jr.)

WHEREAS, the Village is currently a party to pending litigation styled; *Village of Palmetto Bay v. Miami-Dade County*, Case no.: 08-14156 CA 27, in the Circuit Court of the Eleventh Judicial Circuit 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 Town of Miami Lakes, the Village of Palmetto Bay and the City of Doral 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 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 1269-08, dated November 20, 2008; and,

WHEREAS, County Resolution 1269-08 requires: the Village to prepare a ballot question authorizing an amendment to the Village's charter to provide for payment of mitigation for fiscal year 2008-9 on or before September 30, 2009, estimated at \$1,309,153; authorizes the Village to prepare a ballot question (subject to approval of the ballot question by the County Attorney) authorizing an amendment to the Village's Charter through a Special Election eliminating the obligation to pay to the County any mitigation fees for future fiscal years, so long as the Village as part of this Charter modification eliminates the Most Favored Nation Status as it applies to the Village's contribution to the Municipal Services Trust Fund; requires the Village to 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 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 Village Council desires to move forward with the settlement of the Pending Litigation, and to coordinate the Charter Amendments and Special Election needed to approve same.

1 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
2 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
3

4 **Section 1. Recitals.** The above recitals are true and correct and incorporated herein
5 by this reference.
6

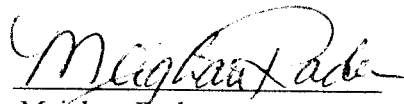
7 **Section 2. Direction regarding Pending Litigation.** The Village Council directs
8 the Village Manager, Village Attorney and Village Clerk to take all necessary steps to:
9

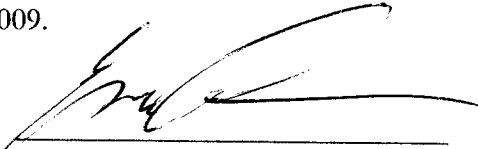
- 10 1. Prepare ballot text amending the Village's Charter to eliminate the payment of
11 annual Mitigation Fees starting with Fiscal Year 2008-09 and to modify the
12 Village's Most Favored Nations Status (the "Charter Amendments");
13
- 14 2. Coordinate with the County and the Supervisor of Elections the scheduling of a
15 Special Election Mail Ballot for the Charter Amendments to be paid for by the
16 County;
17
- 18 3. Negotiate an Escrow agreement with the County Attorney for the Fiscal Year
19 2006-07, 2007-8, and 2008-9 Mitigation Fees in the amount of \$4,615,239 to
20 provide that the funds shall only be held in escrow by the County Attorney and
21 released to the County upon the holding of the special election; and,
22
- 23 4. Prepare a Stipulated Settlement for Voluntary Dismissal of the Pending Litigation
24 which will be effective and filed with the Court(s) only after the Special Election
25 is held, which notice of voluntary dismissal shall be held in escrow by the County
26 Attorney.
27

28 **Section 3. Effective Date.** This resolution shall take effect immediately upon
29 approval.

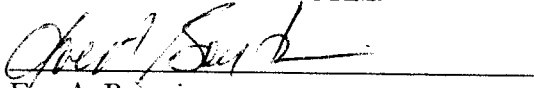
30 PASSED and ADOPTED this 11th day of March, 2009.

31
32 Attest:

33 
34 Meighan Kader
35 Village Clerk

36 
37 Eugene P. Flinn, Jr.
38 Mayor

39 APPROVED AS TO FORM:

40 
41 Eve A. Boutsis,
42 Office of Village Attorney

1 FINAL VOTE AT ADOPTION:
2
3 Council Member Ed Feller YES
4
5 Council Member Howard Tendrich YES
6
7 Council Member Shelley Stanczyk YES
8
9 Vice-Mayor Brian W. Pariser YES
10
11 Mayor Eugene P. Flinn, Jr. YES