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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(31)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: November 20, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution approving an amendment to the Village of Palmetto Bay's Charter eliminating mitigation payments to the County upon certain conditions

Resolution No. R-1269-08

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Katy Sorenson.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

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MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

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FROM: R. A. Cuevas, Jr. County Attorney

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Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

✓ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(31)
11-20-08

RESOLUTION NO. **R-1269-08**

RESOLUTION APPROVING AN AMENDMENT TO THE VILLAGE OF PALMETTO BAY'S CHARTER ELIMINATING MITIGATION PAYMENTS TO MIAMI-DADE COUNTY UPON CERTAIN CONDITIONS

WHEREAS, Section 6.05 of the Miami-Dade County Home Rule Charter requires an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office to approve the amendment of any pre-agreed condition contained in a municipal charter of a municipality prior to a vote of the municipality's electorate; 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 Board expressed its intent to phase out mitigation through the adoption of Resolution No. R-508-07; and

WHEREAS, the Board being duly advised, acting in furtherance of the County's Home Rule powers, desires to phase out mitigation payments made by the Village of Palmetto Bay in an orderly manner, as set forth in this resolution upon certain conditions; and

WHEREAS, Section 9.8 (A) of the Village of Palmetto Bay Charter for Favored Nation Status provides that under certain circumstances the Village's mitigation contribution be modified depending on the terms granted to a subsequently incorporated area; and

WHEREAS, the Board desires to approve the modification of the Village of Palmetto Bay's Charter to provide for the payment of mitigation for fiscal year 2008-2009 as adjusted by the Consumer Price Index, which is currently estimated at $1,309,153 payable on or before September 30, 2009 and elimination of all future payments of its mitigation obligation subsequent to fiscal year 2008-2009, so long as the Village as part of the modification, eliminates the above referenced "Most Favored Nation Status" as it applies to their contribution to the Municipal Services Trust Fund (Section 9.8 (A) of the Village of Palmetto Bay Charter); and

WHEREAS, the Board's authorization for the modification of the Village of Palmetto Bay's Charter is conditioned upon payment of mitigation for fiscal year 2006-2007 and payment of mitigation for fiscal year 2007-2008 in the total amount of $3,306,086 and voluntary dismissal with prejudice of *Village of Palmetto Bay v. Miami-Dade County,* Case No: 08-14156 CA 27,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The Board of County Commissioners by an affirmative vote of two-thirds (2/3) of its members approves a ballot question which authorizes an amendment to the Village of Palmetto Bay's Charter to provide for payment of mitigation for fiscal year 2008-2009 estimated at $1,309,153 on or before September 30, 2009 and thereafter to eliminate the obligation to make any mitigation payment for fiscal year 2009-2010 and future fiscal years, so long as the Village as part of this modification eliminates the above referenced "Most Favored Nation Status" as it

applies to the Village Palmetto Bay's contribution to the Municipal Services Trust Fund (Section 9.8 (A) of the Village of Palmetto Bay Charter).

Section 2. This resolution shall be effective only upon receipt of payment for mitigation for fiscal year 2006-2007, 2007-2008 in the total amount of $3,306,086; approval by the County Attorney of the form of the Village of Palmetto Bay's ballot question consistent with the provisions of this resolution and voluntary dismissal with prejudice of *Village of Palmetto Bay v. Miami-Dade County,* Case No: 08-14156 CA 27 which voluntary dismissal shall be held in escrow by the County Attorney and shall not be filed unless and until the time for the special election as set forth in Section 1 of this resolution has been held.

The Prime Sponsor of the foregoing resolution is Commissioner Katy Sorenson. It was offered by Commissioner **Katy Sorenson**, who moved its adoption. The motion was seconded by Commissioner **Jose "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman **aye**
Barbara J. Jordan, Vice-Chairwoman **aye**

Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**aye**
Joe A. Martinez	**aye**	Dennis C. Moss	**absent**
Dorrin D. Rolle	**aye**	Natacha Seijas	**aye**
Katy Sorenson	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**absent**		

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The Chairman thereupon declared the resolution duly passed and adopted this 20th day of November, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Craig H. Coller / Cynthia Johnson-Stacks