

RESOLUTION No. 24-

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY ATTORNEY TO TAKE ANY ACTION THAT MAY BE NECESSARY, IN ORDER TO PROTECT THE INTEREST OF THE CITY OF DORAL AND THE WELFARE OF ITS RESIDENTS, WHICH MAY INCLUDE INITIATING A CONFLICT RESOLUTION PROCEDURE WITH MIAMI-DADE COUNTY, PURSUANT TO FLORIDA STATUTE CHAPTER 164, IN ORDER TO ENSURE THE RELOCATION OF THE INOPERABLE WASTE TO ENERGY FACILITY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING THE CITY ATTORNEY WITH AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on February 12, 2023, Miami-Dade County's (MDC) waste to energy (WTE) incinerator, located at 6990 N.W. 97th Avenue, Doral, Florida ("RRF") caught fire, causing plumes of black smoke and ash to smother the City of Doral ("Doral") for weeks; and

WHEREAS, from February 12, 2023 through March 30, 2023, MDC, under the advisement of the U.S. Environmental Protection Agency, issued stay-at-home warnings to a majority of Doral residents and ordered the closure of Doral's Glades and Legacy Parks; and

WHEREAS, as a result of the February 12, 2023 calamity, on March 27, 2023, MDC's Board of County Commissioners (the "BCC") passed Resolution R-432-22, which directed MDC's Mayor and administration to analyze and recommend siting alternatives for a new waste to energy incinerator; and

WHEREAS, on September 19, 2023, the BCC formally adopted Resolution No. 821-23, which directed MDC's administration to procure all services needed to relocate and rebuild the waste to energy incinerator outside Doral's political boundaries, and to engage Doral in negotiations for the adoption of an interlocal agreement that would

include a financial contribution toward the relocation, construction and operation of a new waste to energy incinerator; and

WHEREAS, of significance, Resolution No. R821-23 provided that the financial contribution from the Doral would be “an amount equivalent to, or not less than, the amount over and above three and one-half percent of the annual growth of the assessed value for the property and the properties located in whole or in part within a one mile radius from the outer perimeter of the RRF but not to exceed the borders of Doral”; and

WHEREAS, on January 17, 2024, Miami-Dade County transmitted a proposed term sheet to the City of Doral which contained material terms consistent with Resolution No. R-821-23, and provided property value growth projections within the one-mile radius from the outer perimeter of the RRF; and

WHEREAS, based on projection provided by MDC, Doral’s contribution during the span of thirty (30) to forty (40) years would be twenty (20) to (40) million dollars; and

WHEREAS, Resolution No. R-821-23, was based in large part on a report and recommendation authored by the MDC’s mayor; and

WHEREAS, from January 17, 2024 through September 4, 2024, MDC and Doral met on numerous occasions to discuss various items related to the waste to energy incinerator’s relocation; and

WHEREAS, despite months of good faith negotiations, on September 17, 2024, the BCC met, rescinded Resolution No. R-821-23, and instructed MDC’s Mayor and administration to secure a financial contribution from Doral between four hundred million dollars and one and a half billion dollars; and

WHEREAS, MDC's demand on Doral is not financially feasible and may constitute bad faith; and

WHEREAS, the imposition of a four hundred million to one and a half billion dollar obligation would cause Doral significant financial challenges, including the need to cut essential services; and

WHEREAS, the reconstruction of an augmented incinerator with additional solid-waste operations on the RRF site poses an imminent danger to the health, safety and welfare of Doral's residential and business communities; and

WHEREAS, on September 17, 2024, the Mayor and City Council convened and met to discuss the County's demand and possible legal action ("Special Call Meeting"); and

WHEREAS, shortly before the Special Call Meeting, MDC's administration reached out to the City in order to negotiate an agreement to relocate the inoperable WTE; and

WHEREAS, accordingly, the Mayor and City Council instructed the City's Attorney and Manager to engage and work with MDC's administration; and

WHEREAS, during the months of September and October 2024, City's Attorney and administration have held weekly meetings with MDC's administration and legal team; and

WHEREAS, the City has extended an offer to MDC that includes the payment of approximately forty (40) million to be paid over a period of thirty (30) to thirty-five (35) years; and

WHEREAS, MDC has placed an item on their November 6, 2024 BCC agenda, in order to identify the future location of the WTE; and

WHEREAS, County administration has advised City administration that the November 6, 2024 item will be deferred for the December 2024 BCC meeting, in order to allow additional time to evaluate an alternative, non-Doral site; and

WHEREAS, on November 5, 2024, City residents will elect a Mayor and City councilmembers; and

WHEREAS, the City Charter prohibits council-meetings between election day and the certification of elections; and

WHEREAS, there exists the possibility that a run-off election may be necessary; and

WHEREAS, since there is a real and present concern that MDC may take action on the WTE location, during a period of time where the Council will be unable to meet, it is necessary that the City's Attorney and Manager be given direction to represent the City's interest; and

WHEREAS, the Council desires that the City's Attorney and Manager deliver the City's offer to MDC, be present during the November 6, 2024 BCC meeting, and any other BCC meeting that may be scheduled; and

WHEREAS, should the BCC take action on November 6, 2024 to place the WTE within the City of Doral, the City Attorney is authorized to commence Florida Statute 164, Conflict Resolution procedures; and

WHEREAS, Florida Statute § 164.102, titled "Purpose and Intent" provides that "the purpose and intent of this act is to promote, protect, and improve the public health,

safety, and welfare and to enhance intergovernmental coordination efforts by the creation of a governmental conflict resolution procedure that can provide an equitable, expeditious, effective and inexpensive method for resolution of conflicts between and among local and regional governmental entities”; and

WHEREAS, Florida Statute § 164.1051, title “Scope” provides “.... Pursuant to s.164.1041, this act shall apply, at a minimum, to governmental conflicts arising from any of the following issues or processes, included but not limited to:... (5) Siting of hazardous waste facilities, landfills, garbage collections facilities, solid waste disposal sites, or any other locally unwanted land uses....” ; and

WHEREAS, Doral’s Mayor and City Council believes that should MDC take action to place a WTE facility within the City of Doral, it would be in the best interest of the residents of Doral to initiate Florida Statute Chapter 164 procedures in order to address the existing conflict with MDC, and protect the health and welfare of Doral residents; and

WHEREAS, should MDC take action on November 6, 2024, or any time prior to the City’s certification of election results, the City attorney shall remit the attached letter included as Exhibit “A” to the County Mayor, County Clerk and any other necessary party in order to commence Florida Statute Chapter 164, Conflict Resolution procedures, and take any and all other necessary actions.

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

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. The City of Doral Adopts this Ordinance and the Commencement of Florida Statute Chapter 164, Government Dispute Resolution

Processes. In the event that the Miami Dade County, Board of County Commissioners take action to reconstruct and locate the inoperable waste to energy incinerator within the City of Doral during the November 6, 2024 Board of County Commissioners meeting, or any other time prior to the certification of City Mayor and Council elections, the Mayor and City Council authorize the City Attorney and City Manager to initiate Florida Statute Chapter 164 Conflict Resolution proceedings and to remit a copy of the Conflict Assessment Initiation letter in substantially the same form as attached hereto as Exhibit “A” to Miami-Dade County’s Mayor, Chief Operating Officer, Chairman of the Board of County Commissioners, and Commissioner Juan Carlos Bermudez.

Section 3. Authority of the City Attorney. The City Attorney, or his designee, shall take all necessary actions to remit a copy of this resolution and the Conflict Initiation Letter, as attached hereto as Exhibit “A” to the County Mayor, County Chief Operating Officer, Chairman of the Board of County Commissioners, and Commissioner Juan Carlos Bermudez, as provided in Section 2, of this Resolution, and shall take any and all other necessary action

Section 4. Providing for Authority to Expend Budgeted Funds. The City Manager is authorized to expend budgeted funds in order to comply with this Resolution

Section 5. Effective Date. The Resolution shall take effect immediately upon adoption.

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

Mayor Christi Fraga
Vice Mayor Oscar Puig-Corve
Councilwoman Digna Cabral
Councilman Rafael Pineyro
Councilwoman Maureen Porras

PASSED AND ADOPTED this 4 day of November, 2024.

CHRISTI FRAGA, MAYOR

ATTEST:

CONNIE DIAZ, MMC
CITY CLERK

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

LORENZO COBIELLA
GASTESI, LOPEZ & MESTRE, PLLC
CITY ATTORNEY