

**RESOLUTION 19 -1639**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AUTHORIZING THE TOWN ATTORNEY PURSUANT TO FLORIDA STATUTE 164.1041(2) TO SEEK ALL AVAILABLE LEGAL REMEDIES TO PROTECT THE TOWN AND ITS RESIDENTS FROM IMMEDIATE DANGER TO THE HEALTH, SAFETY AND WELFARE OF ITS RESIDENTS FROM THE OPENING OF A BRIDGE AND ASSOCIATED ROAD CONSTRUCTION, AND IMPROVEMENTS ON N.W. 170<sup>th</sup> STREET OVER INTERSTATE 75, PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AUTHORIZATION TO TOWN ATTORNEY; PROVIDING AUTHORIZATION TO TOWN MAYOR; PROVIDING AUTHORIZATION FOR TOWN OFFICIALS; PROVIDING FOR EXPENDITURE OF BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, N.W. 170<sup>th</sup> Street, is the northern boundary of the Town of Miami Lakes (the “Town”); and

**WHEREAS**, on February 11, 2003, the Town adopted Resolution No 03-11, which authorized the transfer of local roads including N.W. 170<sup>th</sup> Street from Miami-Dade County (the “County”) to the Town; and

**WHEREAS**, under the 2003 Road Transfer Agreement, the County transferred the obligation over the operation, maintenance, planning, design, and construction of any road segments to the Town; and

**WHEREAS**, on December 19, 2003, the Town adopted its Comprehensive Development Master Plan (“CDMP”), which included goals, objectives and policies regarding development, land use, and transportation; and

**WHEREAS**, the CDMP Transportation Element addressed the need for cooperation with State and local planning agencies including the County regarding the Town's transportation network, including the need for maintenance and improvements to N.W. 170<sup>th</sup> Street; and

**WHEREAS**, during 2018, the Town contracted with H.W. Lochner ("Lochner") to complete a traffic study regarding the impact of opening a bridge over N.W. 170<sup>th</sup> Street at I-75; and

**WHEREAS**, the Lochner traffic study concluded that without necessary infrastructure which include improvements on N.W. 87<sup>th</sup> Avenue, on ramps to the Gratigny Expressway, underpasses under State Road 826 (the "Palmetto"), the opening of N.W. 170<sup>th</sup> Street would cause a degradation in the level of service at N.W. 170<sup>th</sup> Street; and

**WHEREAS**, the County's actions to proceed with the opening of a bridge over I-75 at N.W. 170<sup>th</sup> Street is a breach of Miami-Dade County's 2003 Road Transfer Agreement with the Town; and

**WHEREAS**, the opening of a bridge connecting N.W. 170<sup>th</sup> Street over I-75 will have a material negative impact on the Town and its residents, affect the health, welfare and safety of its residents, is contrary to public policy and will significantly compromise the Town's legal rights and responsibilities to provide and maintain its municipal road; and

**WHEREAS**, on August 25, 2019, Conflict Resolution Proceedings against the County were commenced; and

**WHEREAS**, the Town has provided the County with the opportunity to meet and has invited the County to mediate, only to be met with replies intended to delay any resolution prior to the opening of road-ways connecting N.W. 170<sup>th</sup> Street at I-75; and

**WHEREAS**, on September 27, 2019, Town Officials witnessed the rapid construction of roadways on the western side of I-75 at N.W. 170<sup>th</sup> Street; and

**WHEREAS**, on October 2, 2019, contractors, were discovered by Town authorities excavating and defacing portions of N.W. 170<sup>th</sup> Street, on the eastern side of I-75, within the Town's municipal boundaries; and

**WHEREAS**, the County's actions to ignore their obligations and promises to the Town their violation of the Town's sovereignty, have placed in jeopardy the health, welfare and safety of the Town and its residents; and

**WHEREAS**, the County's brazen actions to impose a road way, connecting east-west bridge at N.W. 170<sup>th</sup> Street and I-75 will only serve to degrade the Town's ability to maintain its road-network, cause severe impact the Town's infrastructure, degrade N.W. 170<sup>th</sup> Street, and permanently impact the surrounding residential communities; and

**WHEREAS**, the Town Council finds that without immediate action enjoining the County's actions, the Town's health, welfare and safety of its residents will be irretrievably harmed;and

**WHEREAS**, the Council finds that the County's actions have significantly compromised, impaired and hindered the Town's legal right and ability to properly manage the design and maintenance of its roadways; and

**WHEREAS**, Florida Statute 164.1041(2) provides in part that “ If a governmental entity, by a three-fourths vote of its governing body, finds that an immediate danger to the health, safety, or welfare of the public requires immediate action, or that significant legal rights will be compromised if a court proceeding does not take place before the provisions of this act are complied with, no notice or public meeting or other proceeding as provided by this act shall be required before such a court proceeding.”

**WHEREAS**, the Council finds that in order to protect the health, safety and welfare of its residents it is necessary to seek direct relief from the Courts, and by-pass Florida Statute Chapter 164 Conflict Resolution regarding the construction of a bridge at N.W. 170<sup>th</sup> Street and I-75; and

**WHEREAS**, the Town Council hereby authorizes the Town Attorney, Town Manager, Town Mayor to draft, file, execute, take any and all action necessary to protect the Town from the opening of N.W. 170<sup>th</sup> Street bridge, the construction or improvement of any adjoining roadways, including the construction of any improvements that could lead to the eventual opening of a bridge over I-75 at N.W. 170<sup>th</sup> Street; and

**WHEREAS**, in accordance with Florida Statute § 164.1041(2) the Town Council authorizes the Town Attorney to proceed with any action, including the filing of an injunction to protect the Town and its residents from any actions brought by the County or any other entity from opening a road-way, or bridge, over I-75 at N.W. 170<sup>th</sup> Street.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

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

**Section 2. Town Council finds that the Health, Welfare and Safety have been Compromised by the Actions of Miami-Dade County's Breach of their Road Transfer Agreement with the Town.** The Town Council finds that Miami-Dade County breach of their 2003 Road Transfer Agreement with the Town, their attempts to force the opening of a connecting bridge at N.W. 170<sup>th</sup> Street and I-75, their attempts to excavate and deface the portions of the Town's portion of N.W. 170<sup>th</sup> Street if allowed to continue will cause the Town and its residents irreparable harm. The Council finds that unless immediate judicial relief is sought, the health, welfare and safety of its residents will be jeopardized irreparably. Specifically the opening will degrade the Town's ability to maintain its road-network, cause severe impact the Town's infrastructure, and permanently impact the surrounding residential communities. Additionally, the County's actions have directly and significantly affected the Town's legal rights to manage and control the design and maintenance of its roadways, an utter breach of the County's 2003 Road Transfer Agreement with the Town. Accordingly, as per Florida Statute§ 164.1041 (2), the Town authorizes its Town Attorney and Town Officials to take all necessary steps to file an action in Court in order to prevent this imminent danger to the health, safety and well being of the Town and its residents, and the significant compromise of the Town's legal rights over its municipal road at N.W. 170<sup>th</sup> Street.

**Section 3. Authority of the Town Attorney.** The Town Attorney, or his designee, is authorized to take all necessary actions to prevent Miami-Dade County from continuing its efforts to open N.W. 170<sup>th</sup> Street over I-75, and further to take any action necessary to prevent the opening of a connecting bridge at N.W. 170<sup>th</sup> Street and I-75, its adjoining roads or improvements,

including but not limited to the filing of legal action against Miami-Dade County, all private or public entities under Administrative, County, State and Federal Law, and to seek any and all remedies available under the law, including but not limited to injunctive relief.

**Section 4. Authorization of Town Mayor.** The Town Mayor is authorized to execute any document in furtherance of this Resolution.

**Section 5. Authorization of Town Officials.** Town Officials are authorized to take any and all actions in furtherance of this Resolution.

**Section 6. Authorization to Expend Budgeted Funds.** The Town Manager is authorized to expend budgeted funds.

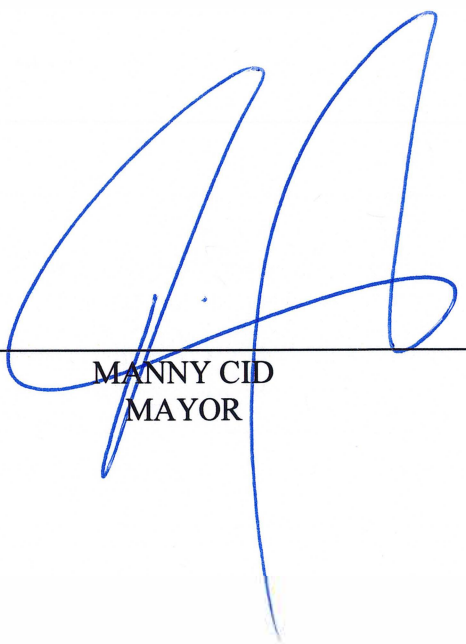
**Section 7. Effective Date.** This Resolution shall be effective immediately upon adoption.

\*\*\*\*\* THIS PORTION HAS BEEN LEFT INTENTIONALLY BLANK \*\*\*\*\*

Passed and adopted this 3rd day of October 2019

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

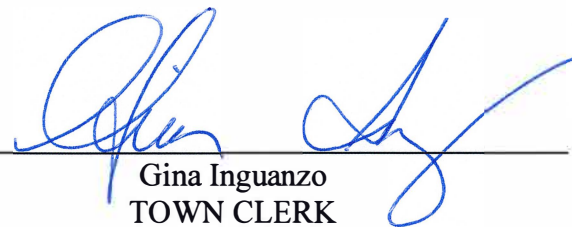
Mayor Manny Cid	yes
Vice Mayor Nelson Rodriguez	Absent
Councilmember Carlos O. Alvarez	yes
Councilmember Luis Collazo	yes
Councilmember Josh Dieguez	yes
Councilmember Jeffrey Rodriguez	yes
Councilmember Marilyn Ruano	yes



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MANNY CID  
MAYOR

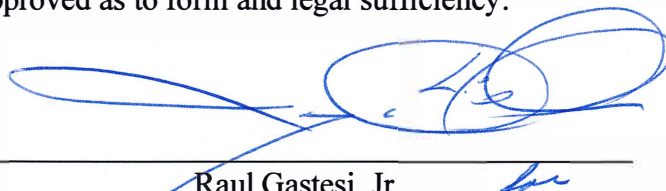
Attest:



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Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:



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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY