

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING PARTICIPATION BY CITY ELECTED OFFICIALS IN THEIR OFFICIAL CAPACITY IN A LAWSUIT SEEKING A DECLARATION THAT THE PROVISIONS OF SECTION 112.144(1)(d), OF THE FLORIDA STATUTES, REQUIRING MUNICIPAL ELECTED OFFICIALS TO FILE FORM 6 FINANCIAL DISCLOSURE FORMS, ARE UNCONSTITUTIONAL AND INVALID, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, since 1976, Article II, Section 8 of the Florida Constitution has required that all elected State constitutional officers file a full and public disclosure of their financial interests, which is done through a state-adopted form ("Form 6") that requires, among other things, the disclosure of the specific amounts of an official's net worth, income and asset values; and

**WHEREAS**, historically, municipal elected officials have been required to make a more limited financial disclosure that is done through a different state-adopted form ("Form 1") that requires, among other things, the disclosure of information related to sources of income, real property, intangible personal property liabilities and interests in specified businesses, but does not include the specific amounts of an official's net worth, income and asset values; and

**WHEREAS**, although the State Legislature has the power in the Florida Constitution to require that additional public officers file a full and public disclosure of their financial interests, it must do so consistent with other constitutional limitations; and

**WHEREAS**, in 1980, the voters of Florida amended the Florida Constitution by adopting Article 1, Section 23, the "Right to Privacy," which states that "[e]very natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein"; and

**WHEREAS**, because the right of privacy is a fundamental right within Florida's constitution, the Florida Supreme Court has consistently required that any law intruding on the right is presumptively unconstitutional and must be justified by a "compelling state interest" which the law serves or protects through the "least restrictive means;" and

**WHEREAS**, during the 2023 legislative session, Senate Bill 774 was passed and codified at Law of Florida 2023-09, amending Fla. Stat. § 112.3144, to change the financial disclosure requirements and now require that all elected municipal mayors and elected members of the governing board file a Form 6 financial disclosure, which is substantially more burdensome and personally intrusive than the Form 1; and

**WHEREAS**, the imposition of the Form 6 disclosure requirements at the municipal level (a) represents an unwarranted intrusion into the privacy rights of municipal elected officials, most of which receive little or no compensation for their service, (b) unnecessarily risks the safety of such officials (making them targets of, among other things, burglary, identity theft and extortion), and (c) will deter many otherwise qualified and interested citizens from running for office; and

**WHEREAS**, in fact, many municipal officials resigned from office prior to December 31, 2023, as a result of the new disclosure requirements, disrupting the ability of some local governments to operate for lack of a quorum; and

**WHEREAS**, the imposition of the intrusive Form 6 disclosure requirements at the municipal level is not the least restrictive means of serving the governmental interests of preventing corruption and conflicts of interest, as demonstrated by the lack of such requirements at the municipal level in other states – even the President of the United States and members of the U.S. Congress are not required to make such extensive disclosures; and

**WHEREAS**, requiring - low paid - municipal elected officials to disclose their precise net worth, income and assets does not serve (let alone constitute the least restrictive means of serving) any compelling interest; and

**WHEREAS**, the imposition of new financial disclosure requirements upon municipal elected officials who were elected without such requirements violates due process and is fundamentally unfair; and

**WHEREAS**, the City desires to authorize members of the City Commission to elect to participate in their official capacity in a lawsuit seeking a declaration that the provisions of Section 112.144(1)(d), Florida Statutes, requiring municipal elected officials to file Form 6 financial disclosure forms, are unconstitutional and invalid (the "Lawsuit"); and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AS FOLLOWS:**

**Section 1.** That the foregoing "**WHEREAS**" clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

**Section 2.** The City Commission hereby authorizes the participation of any individual City Elected Officials who choose to participate as plaintiffs in their official capacity, in a lawsuit seeking declaratory and other appropriate relief challenging the provisions of Section 112.144(1)(d), Florida Statutes, that require municipal elected officials to file Form 6 financial disclosure forms, based upon any appropriate legal theories, including those set forth above, subject to the participation of at least ten municipalities.

**Section 3.** Weiss Serota Helfman Cole + Bierman, PL (the "Firm") is hereby retained to represent the City Elected Officials who elect to participate, in their official capacity, in this litigation. The Firm will charge the City a flat fee, inclusive of attorneys' fees and costs, of \$10,000 to represent the individual elected officials who choose to participate as plaintiffs, for the litigation in the trial court. The filing of any appeals will be authorized by separate resolution under the terms thereof. The City and its elected officials also acknowledge that the Firm will be representing other local governments and officials in this lawsuit and waives any conflicts related to such representation. The City further acknowledges that, from time to time, the Firm may be called upon by client to represent them as to requests for various approvals and as to other non-litigation matters with respect to or involving the City. The City hereby waives any potential conflict of interest in the Firm's representation of those clients arising from its representation of the City in the Lawsuit.

**Section 4.** That the appropriate City officials are hereby authorized to do all things necessary and expedient to carry out the aims of this Resolution.

**Section 5.** That this Resolution shall take effect immediately upon adoption.


**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.


**ATTEST:**

\_\_\_\_\_  
Steven Meiner, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

  
\_\_\_\_\_  
Date

1-23-24