RESOLUTION NO. 2016-R-27

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, OPPOSING SENATE BILL 872 AND HOUSE BILL 675, OR SIMILAR LEGISLATION THAT WOULD PREEMPT LOCAL GOVERNMENT POLICIES RELATED TO IMMIGRATION DETAINER REQUESTS; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

WHEREAS, the United States Department of Homeland Security, Immigration and Customs Enforcement ("Immigration and Customs Enforcement") issues immigration detention requests, known as detainers, to local criminal justice agencies, including the Miami-Dade Corrections and Rehabilitation Department ("Department"); and

WHEREAS, Immigration and Customs Enforcement issues detainers to the Department requesting that Miami-Dade County ("County") hold an inmate until Immigration and Customs Enforcement can assume custody of the inmate, up to 48 hours after the inmate's local charges have been resolved; and

WHEREAS, on December 3, 2013, the County adopted Resolution No. R-1008-13 directing the County Mayor, or his designee to implement a policy whereby the Department may, in its discretion, honor detainer requests issued by Immigration and Customs Enforcement only if the federal government agrees in writing to reimburse the County for any and all costs relating to compliance with such detainer requests, and either:

a. the inmate that is the subject of such a request has a previous conviction for a Forcible Felony, as defined in Section 776.08, Florida Statues, or

b. the inmate that is the subject of such a request has, at the time the Department receives the detainer request, a pending charge of a non-bondable offense, as provided by Article I, Section 14 of the Florida Constitution, regardless of whether bond is eventually granted; and

WHEREAS, effective January 1, 2014, the County began honoring detainer requests only when the above conditions were met; and

WHEREAS, since the implementation of this policy, County taxpayers have saved hundreds of thousands of dollars in costs associated with honoring immigration detainer requests that were unreimbursed by the federal government; and

WHEREAS, Senate Bill ("SB") 872 and House Bill ("HB") 675 have been filed by Senator Aaron Bean (R-Jacksonville) and Representative Larry Metz (R-Groveland), respectively; and

WHEREAS, SB 872 and HB 675 are identical bills that would prohibit local governmental entities and law enforcement agencies from limiting or restricting the enforcement of federal immigration law, including but not limited to, limiting or restricting compliance with an immigration detainer; and

WHEREAS, SB 872 and HB 675 prohibit "Sanctuary Policies" defined therein as "a law, policy, practice, procedure, or custom adopted or permitted by a state entity, state official, law enforcement agency, local governmental entity, or local government official ... which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency or a federal immigration official with respect to federal immigration enforcement, including, but not limited to, cooperation with immigration detainers"; and

WHEREAS, SB 872 and HB 675 would preempt County policy as it specifies that "a state or local governmental entity or official or a law enforcement agency may not limit or restrict the enforcement of federal immigration law, including, but not limited to, limiting or restricting a state or local governmental entity or official or a law enforcement agency from complying with an immigration detainer"; and

WHEREAS, SB 872 and HB 675 would permit the Florida Attorney General, or applicable state attorney, to institute proceedings in Circuit Court to enjoin a law enforcement agency or local governmental entity found to be in violation of the proposed legislation and would impose fines of at least $1,000, but not more than $5,000, for each day that the policy or practice was found to be in effect before the injunction was granted; and

WHEREAS, pursuant to 8 C.F.R. §287.7(e), Immigration and Customs Enforcement is not responsible for incarceration costs of any individual against whom a detainer is lodged until actual assumption of custody; and

WHEREAS, SB 872 and HB 675 could impact the County's policy regarding immigration detainers and could prevent the County from obtaining reimbursement for any and all costs related to honoring immigration detainers; and

WHEREAS, detainer requests are an unfunded federal mandate that impose hefty fiscal burdens and legal liability on local law enforcement agencies; and

WHEREAS, SB 872 and HB 675 could result in the taxpayers of Miami-Dade County, and any county in Florida, incurring the cost of honoring immigration detainers; and

WHEREAS, the Mayor and City Council oppose SB 872 and HB 675 because such Bills would preempt policies set by Miami-Dade County that provide that the County will only hold such inmates under immigration detainer requests up to 48 hours if the federal government reimburses County taxpayers for the cost.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1.   Opposition to SB 872 and HB 675. The Mayor and City Council of the City of North Miami, Florida, hereby oppose Senate Bill 872 and House Bill 675, or similar legislation that would preempt local government policies related to immigration detainer requests.
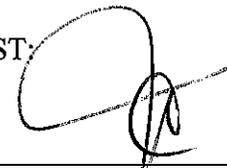
Section 2.   Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a ___5 - 0___ vote of the Mayor and City Council of the City of North Miami, Florida, this __8th__ day of ___March___, 2016.
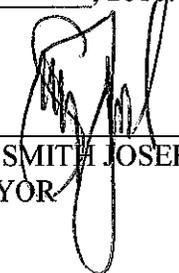
_____
DR. SMITH JOSEPH
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
ROLAND C. GALDOS, ESQ.
INTERIM CITY ATTORNEY

SPONSORED BY: VICE MAYOR ALIX DESULME

Moved by: Galvin

Seconded by: Keys

Vote:

Mayor Smith Joseph, D.O., Pharm. D.	__X__ (Yes)_____ (No)
Vice Mayor Alix Desulme	__X__ (Yes)_____ (No)
Councilman Scott Galvin	__X__ (Yes)_____ (No)
Councilwoman Carol Keys, Esq.	__X__ (Yes)_____ (No)
Councilman Philippe Bien-Aime	__X__ (Yes)_____ (No)