

RESOLUTION No.18-65

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE SETTLEMENT AGREEMENT AND RELEASE FOR CASE NO. 18-20028-CIV-ALTONAGA, SIERRA V. CITY OF DORAL, FLORIDA; AUTHORIZING THE CITY MANAGER TO EXECUTE SAME; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Mr. Eddie Sierra initiated litigation against the City of Doral (the “City”) resulting from issues associated with limited accessibility by hearing impaired individuals of content on the City’s website and social media platforms; and

WHEREAS, the parties have a mutual desire to resolve the Litigation and have reached an amicable resolution; and

WHEREAS, the Mayor and Council dispose of the Litigation and settle the matter pursuant to the terms of the “Settlement Agreement and Release,” attached hereto as Exhibit “A”.

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

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Approval of Settlement. The Settlement Agreement and Release, attached hereto as Exhibit “A”, which is incorporated herein and made a part hereof by this reference, is hereby approved.

Section 3. Authorization. The City Manager is hereby authorized to execute the Settlement and Release and act in furtherance thereof.

Section 4. Implementation. The City Manager and City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution.

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

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

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Ana Maria Rodriguez	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Claudia Mariaca	Yes

PASSED AND ADOPTED this 11 day of April, 2018.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:


CONNIE DIAZ, CMC, CITY CLERK

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



WEISS, SEROTA, HELFMAN, COLE & BIERMAN, PL
CITY ATTORNEY

EXHIBIT “A”

**SETTLEMENT AGREEMENT AND RELEASE
BETWEEN EDDIE I. SIERRA AND
THE CITY OF DORAL, FLORIDA**

INTRODUCTION

This Settlement Agreement and Release (“Agreement”) is made by and between the City of Doral (“City”), and Eddie I. Sierra (“Mr. Sierra”) (collectively, the “Parties”) concerning the accessibility of the City’s video content on its website and social media platforms to Mr. Sierra. Mr. Sierra is deaf and has requested that videos of regular Commission meetings and budget public hearings of the City Commission posted on the City’s website as well as the City’s social media postings be closed captioned.

This Agreement resolves all claims that Mr. Sierra has or that may arise out of his request for captioning of videos and accessibility of the City website and social media posts which were raised or which could have been raised in the litigation titled *Sierra v. City of Doral*, United States Southern District of Florida Case Number 18-20028-CIV-ALTONAGA/Goodman (“Lawsuit”). The parties agree that this Settlement Agreement does not constitute an admission of liability, and the City expressly denies violating the ADA.

TERMS

1. This Agreement does not constitute and shall not be deemed to be a finding or determination by a court of law nor an admission by any party, regarding the merits, validity or accuracy of any of the allegations, claims or defenses asserted by either party in the Lawsuit. This Agreement represents the compromise of the disputed claims in lieu of extensive litigation.

2. All videos of regular Commission meetings and budget public hearings of the City Commission posted to the City’s website after the execution and approval of this Agreement will be close captioned. The captioning will comply with WCAG2.0 AA.

3. Upon request, videos of regular Commission meetings and budget public hearings of the City Commission for prior years will be transcribed or captioned as required by 28 CFR 35.160(b)(2). A full transcript (with indications of who is speaking) may also be provided as an equivalent accommodation, depending upon the request.

4. The City will continue to include a statement on its web page advising that it makes its website and other digital technology accessible to persons with disabilities, and the accessibility statement will include a link or the name and contact information of the person responsible for accessibility of the website.

5. The City uses different social media platforms to communicate depending on the issue or what it is trying to accomplish (i.e., Facebook, YouTube, Twitter, etc.). The City agrees to ensure its social media content will be close captioned as technology allows. The City understands that the present versions of Facebook Live, Facebook and YouTube platforms currently support closed captioning. If technology no longer becomes available on a particular

social media platform, the City will comply as the technology becomes available. The City also agrees that whenever it uses technology that does not have closed captioning capabilities for live streaming that it will accommodate the deaf or hard of hearing through a post-live stream caption or transcript within 3 days.

6. The City retains the right to modify the content of its website and social media, but agrees to continue to provide web streaming service on its website for a period of not less than 24 months after the Effective Date of this Agreement. During that 24-month period, the City agrees to provide undiminished web streaming access to all regularly scheduled Commission meetings of the City.

7. If Mr. Sierra asserts that a violation of this Agreement has occurred, he will provide written notice to the City, and the City will have thirty (30) days to cure the alleged violation. If, Mr. Sierra believes the cure is not sufficient, he retains the right to enforce the Agreement in Federal Court. Notice to the City shall be provided as follows:

To: City Manager
Government Center
8401 NW 53rd Terrace
Doral, Florida 33166

A copy to: City Attorney
Currently, Daniel Espino, Esq.
Weiss Serota Helfman Cole & Bierman, P.L.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, FL 33134

8. Mr. Sierra is represented by J. Courtney Cunningham, PLLC. The City agrees to pay J. Courtney Cunningham, PLLC, \$10,000.00 as Mr. Sierra's attorney's fees for settlement of all claims herein ("Settlement Payment") via check made payable to the Trust Account of J. Courtney Cunningham, PLLC within ten (10) days of the Effective Date (defined below) of this Agreement.

9. Beyond that which is set forth in paragraph 8 above, the Parties shall each bear their own attorney's fees and costs incurred in this Claim and the settlement of same.

10. Upon approval and execution of this Agreement by the City Commission, counsel for Plaintiff will file the Joint Motion to Dismiss with prejudice (with proposed Order Dismissing Case with Prejudice (the "Order")), attached hereto as Exhibit A.

11. Mr. Sierra, in consideration of the terms contained in paragraphs 1-7 herein and other valuable considerations, received collectively from or on behalf of the City, the receipt whereof is hereby acknowledged, knowingly and voluntarily releases, waives, and forever discharges any and all claims, rights, demands, causes of actions, of any kind whatsoever, known

or unknown, foreseen or unforeseen, foreseeable or unforeseeable, and any consequences thereof, which were brought or could have been brought in the Lawsuit. Mr. Sierra is not releasing any potential claim for violation of this Agreement or any future ADA claims which may arise after the Effective Date of this Agreement.

12. This Agreement contains the entire agreement between the Parties related to Mr. Sierra's Lawsuit. This Agreement replaces any prior or contemporaneous oral representation or understanding about the settlement. This Agreement may not be amended or modified except in writing signed by both Parties. The Parties acknowledge that in entering into this Agreement, they have not relied upon any representations, warranties, promises, or conditions made by any other Party or any other Party's agents that are not specifically set forth in this Agreement. The Parties acknowledge that each of them has freely executed this Agreement after independent investigation, with the advice of independent counsel and without fraud, duress, or undue influence, that each understands the content of this Agreement and that each is capable of understanding the content of this Agreement.

13. This Agreement shall become effective on the date of the last signature affixed hereto.

14. The Parties agree that this Agreement can be signed in counterparts, each of which shall be deemed an original, and further agree this Agreement may be signed electronically and transmitted electronically or via facsimile, each of which shall be deemed an original.

15. No ambiguity in any provision hereof shall be construed against a Party by reason of the fact that it was drafted by such Party or their counsel, it being the agreement of the Parties that this Agreement was drafted jointly by the Parties.

16. If any part of this Agreement is held unenforceable or deemed to be in conflict with the applicable laws or regulations of any jurisdiction, the invalid or unenforceable part or provision shall be replaced with a provision which accomplishes, to the extent possible, the original business purpose of such part or provision in a valid and enforceable manner, and the remainder of this Agreement shall remain binding upon the Parties.

[Remainder of page left blank]

J. COURTNEY CUNNINGHAM, ESQ

By: _____
Counsel for Plaintiff Eddie I. Sierra

CITY OF DORAL

By: _____
Name: Edwards A. Rojas
Title: City Manager