

RESOLUTION NO. 10 853

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE LAW FIRM OF GONZALO R. DORTA TO HANDLE LITIGATION; APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MAYOR TO EXECUTE THE RETAINER AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") finds that it is both necessary and appropriate to retain an attorney to handle litigation for the Town; and

WHEREAS, the Town Council has selected the law firm of Gonzalo R. Dorta, P.A. to address litigation efforts on behalf of the Town; and

WHEREAS, the Town purchasing procedures (the "Purchasing Procedures") are currently provided in Ordinance 09-115; and

WHEREAS, the purchasing procedures provide that a contract or agreement for professional services may be renewed upon a finding by the Town Manager that the services rendered have been satisfactory; and

WHEREAS, The Town Manager has found the litigation services of the law firm of Gonzalo R. Dorta, P.A. to be satisfactory and recommends renewal of the agreement; and

WHEREAS, the Town Council finds it is in the best interest of the Town to renew the agreement with the law firm of Gonzalo R. Dorta, P.A. for litigation services; and

WHEREAS, in accordance with Sections 200.065 and 166.241, Florida Statutes, the Town Council adopted the Budget for Fiscal Year 2010-2011 (the "Budget") by Ordinance No. 2010-125; and

WHEREAS, Section 4 of Ordinance No. 2010-125 states that the Town Council is authorized to modify any department, category total or line item of the Budget by resolution so long as the modification does not exceed the Town of Miami Lakes' (the "Town") total budgeted funds for the Fiscal Year 2010-2011; and

WHEREAS, the Town Council, in accordance with Section 4 of Ordinance No. 2010-125, has determined that it is necessary to modify the Budget to provide the funding for the Town litigation contract renewal by transferring \$40,000 from Administration Intergovernmental Relations to Town Attorney Litigation Support bringing the total for the Town Attorney Litigation Support line item to \$80,000, based upon the recommendation of the Town Manager.

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

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Firm Selection. The law firm of Gonzalo R. Dorta, P.A. ("Dorta") is approved to address litigation efforts on behalf of the Town.

Section 3. Approval of the Retainer Agreement. The Agreement For Professional Services between Dorta and the Town of Miami Lakes to perform legal services as described therein, (the "Agreement"), a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney, is approved.

Section 4. Budget Modification. The Budget for Fiscal Year 2010-2011 adopted in Section 2 of Ordinance 2010-125 is hereby modified, by transferring \$40,000 from

Administration Intergovernmental Relations to Town Attorney Litigation Support bringing the total for the Town Attorney Litigation Support line item to \$80,000.

Section 5. Authorization of Town Officials. The Town Manager and/or his or her designee and the Town Attorney are authorized to take all actions necessary to implement the terms and conditions of this Resolution and the Agreement.

Section 6. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Town Manager pursuant to the Town's Purchasing Procedures Ordinance, the Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

Section 7. Execution of the Retainer Agreement. The Town Mayor is authorized to execute the Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Agreement and to execute any extensions and/or amendments to the Agreement, subject to the approval as to form and legality by the Town Attorney.

Section 8. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 9 day of November 2010.

Motion to adopt by Pizzi, second by Perdomo.

FINAL VOTE AT ADOPTION

Mayor Michael Pizzi

yes

Vice Mayor Nick Perdomo

yes

Councilmember Mary Collins

yes

Councilmember Tim Daubert NO
Councilmember Nelson Herndandez yes
Councilmember Ceasar Mestre yes
Councilmember Richard Pulido yes




Michael Pizzi
MAYOR

ATTEST:



Marjorie Tejada
TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



TOWN ATTORNEY
Weiss, Serota, Helfman, Pastoriza,
Cole & Boniske, P.L.

November 2, 2010

The Honorable Mayor and
Members of the Town Council
Town of Miami Lakes
15700 NW 67 Avenue, Suite 302
Miami Lakes, Florida 33014

AGREEMENT FOR PROFESSIONAL SERVICES

Dear Mayor and Council Members:

We are pleased that you wish to engage our Firm to serve as special litigation counsel for the Town of Miami Lakes.

This letter is intended to set forth our understanding as to the nature and scope of the legal services we have agreed to render for the Town, the amount of our fees for those services, the manner in which our fees for those services shall be determined and the terms upon which the Town will make payment.

My Firm agrees to act as special litigation counsel for one calendar year under the following terms:

1. **Nature of Legal Services.** You have engaged us to represent the Town of Miami Lakes as special litigation counsel. In that capacity, this Firm will represent the Town in litigation only.
2. **Monthly Fee/Scope of Assignment.** The Town shall pay to this Firm, a flat monthly fee of \$6,670.00 on the first day of each calendar month in consideration for securing this relationship and having this Firm serve as special litigation counsel. In return, this Firm will represent the Town in litigation.
3. The Town and Firm agree that there may be a need to hire specialized counsel in an area where unique specialty is warranted when the Town Attorney and this Firm determines that specialized counsel is best suited to handle the litigation. Under those limited cases, if they arise, the Firm will monitor the litigation and participate in the litigation and trial as co-counsel of record.

4. **Expenses.** In addition to the monthly fee, the Town shall reimburse the Firm and pay on the 1st day of each calendar month, at the same time the monthly fee is due, all reasonably and necessary expenses incurred by the Firm in the performance of its services, which include but are not limited to:
- i. Air-travel (coach);
 - ii. Photocopy charges – in house (\$0.25 per page), postage, courier service;
 - iii. Court reporter fees;
 - iv. Litigation related expenses: deposition and other recorded transcripts; experts, process server, audio/visual and commonly incurred litigation expenses;
 - v. Parking; and
 - vi. Overnight lodging/hotel stay and related expenses of taxi fare, food and beverage consumption (“Expenses”).

The Firm will submit with its monthly statement an itemized list of these Expenses with backup records as needed. The Firm will only advance air-travel, lodging and related expenses but will not advance payment on court-reporters, experts, process server and the above-described litigation-related expenses. The Town will be billed directly for those expenses and the Town must pay those vendor invoices when the expense bill is presented.

If the Town engages Mr. Dorta to supervise the work of another attorney or represent a Town Official in a case where other counsel is representing the Town, the Town agrees to pay an hourly fee of \$215.00 to Mr. Dorta since those services are outside the scope of the engagement.

The Firm shall also be entitled as an expense, the cost of paralegal support services not to exceed \$90 an hour when said paraprofessional support is used by the Firm.

5. **Length of Engagement/Termination.** This engagement will be limited to 12 consecutive calendar months. Thereafter, the parties may mutually agree to extend this engagement upon new terms that are agreeable to both sides. Before the end of this engagement period, either party may serve on the other a written notice to terminate (“Notice of Termination”) electing to terminate this relationship before the end of the 12 calendar month period with or without cause. The Town may extend this agreement for an additional 12 month period subject to a price escalation of 4% of the monthly fee for the additional period.

However, if there are pending fees or costs due and owing to the Firm when the Town elects to terminate this contract, those fees and costs must be paid when the Firm is served with the Notice of Termination for the termination to be effective. Similarly, if the Firm decides to terminate this relationship before the end of its term, the Town shall remain responsible for all outstanding fees and costs, and these fees and costs must be paid by the Town when it receives the Notice of Termination from the Firm.

The Firm may also wish to terminate the agreement before its term with or without cause by serving the same Notice of Termination to the Town Attorney with copy to the Town Mayor. If the Firm elects to so terminate this engagement, the Firm must cooperate with the Town Attorney to ensure an efficient transition and transfer of the Firm's files and materials to the Town Attorney.

6. Representation of Other Clients. We are bound by rules of legal ethics not to represent any client if the representation of that client will be directly adverse to the interests of another client unless both clients consent to said representation after consultation. If this letter is addressed to more than one person, your signature of this letter will constitute consent from each of you with respect to the matter or matters specifically described under the heading "Nature of Legal Services.

7. Fees for Other Services. In the event you ask us to render legal services with respect to matters not covered under this engagement, these other matters will be handled on terms that are mutually agreeable pursuant to a separate written agreement.

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Thank you for this opportunity to serve the Town of Miami Lakes. If the Town is agreeable to these terms, please have an authorized Town Official or representative and/or after Town Council vote and direction, sign below and return one copy of this agreement to the undersigned. The effective date of this agreement and the Town's obligation to begin paying its monthly fee and expenses shall begin upon execution of this agreement.

Respectfully submitted,

Gonzalo R. Dorta

GRD/ml

Town of Miami Lakes

By: 

Authorized Representative

Print Name: Michael Pizzi

Date: November 9, 2010