

**RESOLUTION NO. 09-727**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE SELECTION OF AKERMAN, SENTERFITT & EIDSON, P.A. FOR FEDERAL GOVERNMENT REPRESENTATION AND LOBBYING SERVICES; APPROVING THE AGREEMENT FOR LEGISLATIVE CONSULTING BETWEEN AKERMAN, SENTERFITT & EIDSON, P.A., AND THE TOWN OF MIAMI LAKES; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the "Town") issued a Request for Proposals for Lobbyist Services on February 10, 2009; and

**WHEREAS**, on February 20, 2009, the Town received five (5) proposals for federal government representation from lobbyist firms; and

**WHEREAS**, a Committee established by the Town Manager (the "Committee") reviewed all responsive proposals submitted to the Town; and

**WHEREAS**, the Committee recommends the selection of Akerman, Senterfitt & Eidson, P.A. for federal government representation; and

**WHEREAS**, the Town Council finds that the selection of Akerman, Senterfitt & Eidson, P.A. ("Akerman") to serve as the Town's federal government representative and lobbyist is in the best interest of the Town.

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

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

**Section 2. Approval of Akerman.** Akerman, Senterfitt & Eidson, P.A. is selected and approved to serve as the Town's federal government representative and lobbyist.

**Section 3. Approval of Agreement.** The Agreement for Federal Legislative Consulting between Akerman, Senterfitt & Eidson, P.A. and the Town of Miami Lakes for legislative consulting and federal government representation services (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. Authorization of Town Officials.** The Town Manager and Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Agreement.

**Section 5. 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 6. Execution of the Agreement.** The Town Manager 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 7. Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 17<sup>th</sup> day of March, 2009.

Motion to adopt by Mayor Michael Pizzi, second by Councilmember Mary Collins.

FINAL VOTE AT ADOPTION


Mayor Michael Pizzi	yes
Vice Mayor Richard Pulido	yes
Councilmember Mary Collins	yes
Councilmember Robert Meador II	yes
Councilmember Nick Perdomo	yes
Councilmember Nancy Simon	yes
Councilmember George Lopez	yes




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Michael Pizzi  
MAYOR


ATTEST:




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Debra Eastman  
TOWN CLERK, DEPUTY

Approved as to form and legality for the use and benefit of the Town of Miami Lakes only:




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

## **AGREEMENT**

### **AGREEMENT FOR FEDERAL LEGISLATIVE CONSULTING**

THIS AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_ day \_\_\_\_\_, 2009 by and between the Town of Miami Lakes, a Florida Municipal Corporation (the "Town") and Akerman, Senterfitt & Eidson, P.A., a Florida Corporation ("Consultant").

#### **THE PARTIES AGREE AS FOLLOWS:**

#### **1. SERVICES**

1.1. Consultant agrees to provide consulting and representative services for Town as set forth in Exhibit "A" attached hereto and made a part hereof (the "Services").

#### **2. COMPENSATION**

2.1. For all professional services provided by Consultant as described in Section 1 and upon receipt of an invoice by Consultant, the Town shall pay Consultant monthly compensation of \$7,500.00 payable on or before the 1<sup>st</sup> day of each month for the term of this Agreement.

2.2. Consultant shall be responsible for all travel and non-travel expenses incurred by Consultant directly required for Consultant to provide the professional Services described in Section 1 to the Town.

#### **3. TERM**

3.1. This Agreement shall be effective on March 19, 2009 and shall be for an initial term of one (1) year. The Town Manager, subject to the prior approval of the Town Council, is authorized to extend the term of this Agreement upon the same terms and conditions contained herein for up to two (2) additional terms of one (1) year each.

**4. TERMINATION**

4.1. Notwithstanding Section 3 above, the Town Manager, subject to the prior approval of the Town Council, may terminate this Agreement at any time upon thirty (30) days advance written notice to Consultant. In the event of such termination, the Town shall be obligated only for the pro-rated monthly compensation incurred up to and including the termination date.

4.2. Notwithstanding Section 3 above, Consultant may terminate this Agreement at any time by giving Town written notice at least sixty (60) days prior to the effective date of termination set forth in the written notice. In the event of such termination, the Town shall be obligated only for the pro-rated monthly compensation incurred up to and including the termination date.

4.3 Notwithstanding Section 3 above, either party may terminate this Agreement if the other party breaches any material term of this Agreement and fails to cure same within ten (10) days after written notice from the non-breaching party. In the event of such a termination by either party, the Town shall pay Consultant only the pro-rated monthly compensation incurred prior to the termination date.

**5. CONFLICT OF INTEREST**

5.1. Consultant shall not be prohibited from representing or providing the like services to other persons and entities other than the Town, so long as Consultant shall avoid any representation or relation which creates an adversarial conflict of interest, as first determined by the Town Attorneys in their reasonable opinion.

**6. SERVICES NOT ASSIGNABLE**

6.1. Although this Agreement is with Consultant, the parties understand that the services of Mike Abrams are personal in nature and that Mike Abrams shall be designated by Consultant to perform services under this Agreement. In the event that Mike Abrams can no longer perform services for Consultant under this Agreement, this Agreement shall automatically terminate. This Agreement shall not be subject to assignment by Consultant without prior approval of the Town Council.

**7. COST AND ATTORNEY'S FEES**

7.1. If either the Town or Consultant is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including but not limited to, costs and reasonable attorneys' fees.

**8. INSURANCE**

8.1 Consultant shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interests of the Town against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in Florida, be rated A or better, and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers. Any insurance maintained by the Town shall be in excess of Consultant's insurance and shall not contribute to Consultant's insurance. The insurance coverages shall include a minimum of:

- 8.1.1 Worker's Compensation Insurance -- statutory requirement.
- 8.1.2 Employer's Liability Insurance -- \$1,000,000.00.
- 8.1.3 General Commercial Liability Insurance -- The policy must contain minimum limits of liability as follows, or a \$1,000,000.00 combined single limit:
  - (a) Bodily injury: \$1,000,000.00; and
  - (b) Property Damage: \$1,000,000.00 each occurrence.
- 8.1.4 Automobile Liability Insurance. The policy must contain minimum limits of liability as follows or \$500,000.00 combined single limit:
  - (a) Each person: \$500,000.00;
  - (b) Bodily injury: \$500,000.00;
  - (c) Property Damage: \$500,000.00 each occurrence; and
  - (d) The policy must provide coverage for non-owned and hired automobiles.
- 8.1.5 Professional Liability Insurance - \$500,000.00 each occurrence.
- 8.1.6 Consultant must submit, prior to signing of this Agreement, a Certificate of Insurance naming the Town of Miami Lakes as an additional insured.

8.2 Consultant shall provide the Town Manager with Certificates of Insurance for all required policies. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Town reserves the right to require Consultant to provide a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the services, renewal Certificates of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any

policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Town Manager.

8.3 The Town is to be specifically included as an Additional Insured for the liability of the Town resulting from operations performed by or on behalf of Consultant in performance of this Agreement.

8.4 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. Consultant shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

**9. GOOD FAITH**

Each party hereto agrees to act in good faith with respect to the other party or parties exercising its rights and discharging its obligations under this Agreement. Each party further agrees to use its best efforts to ensure that the purposes of this Agreement are realized and to take all steps as are reasonable and necessary in order to effectuate the intent of this Agreement. Each party agrees to execute, deliver and file any document or instrument necessary or advisable to realize the purposes of this Agreement.

**10. INSPECTION AND AUDIT**

During the term of this Agreement and for three (3) years from the date of termination, Consultant shall allow Town representatives access during reasonable business hours to Consultant's and any subcontractor's records related to this Contract for the purposes of inspection or audit of such records. If upon audit of such records the Town determines Consultant was paid for services not performed, upon receipt of written demand by the Town, Consultant shall remit such payments to the Town. Consultant



shall retain all records associated with this Contract for a period of three (3) years from the date of Termination.

**11. BACKGROUND CHECKS**

Consultant shall be responsible for maintaining current background checks, in accordance with the Town's criminal background check policy (Administrative Order #07-01) on all employees and subcontractor employees involved in the performance of this Agreement. Background checks shall be performed prior to the performance of any services by the employees under this Agreement. Written verification of any background check must be provided to the Town yearly or when employees are hired, or at any time as requested by the Town's Representative.

**12. GOVERNING LAW**

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

**13. CONSENT TO JURISDICTION**

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of or relating to the Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

**14. AMENDMENTS**

No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement.

**15. WAIVER OF JURY TRIAL**

Both Town and Consultant knowingly, voluntarily, and irrevocably waive their right to a trial by jury in any civil proceedings that may be initiated by either party with respect to any term or condition of this Agreement.

**16. NOTICE**

Any notice required by this Agreement shall be hand delivered or sent by certified mail addressed to:

Town:

Attention: Town Manager  
Town of Miami Lakes  
15700 NW 67 Avenue, Suite 302  
Miami Lakes, FL 33014

With a copy to:

Nina Boniske, Town Attorney  
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.  
2525 Ponce de Leon Blvd., Suite 700  
Coral Gables, FL 33134  
Telephone: (305) 854-0800  
Facsimile: (305) 854-2323

Consultant:

Akerman, Senterfitt & Eidson, P.A.  
One Southeast Third Avenue, 25<sup>th</sup> Floor  
Miami, FL 33131-1714  
Telephone: (305) 374-5600  
Facsimile: (305) 374-5095

**17. SEVERABILITY**

If any provision of this Agreement or the application thereof to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this

Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

**18. INDEMNIFICATION**

Consultant shall defend, indemnify, and hold harmless the Town, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or in any way connected with Consultant's performance or non-performance of any provision of this Agreement, including but not limited to, liabilities arising from contracts between Consultant and third parties made pursuant to this Agreement. Consultant shall reimburse the Town for its expenses including reasonable attorney's fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of or related to such claim.

**19. ENTIRE AGREEMENT/MODIFICATION/AMENDMENT**

19.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

19.2 No agent, employee, or other representative of either party is empowered to modify and amend the terms of this Agreement, unless executed with the same formality as this document.

**20. INDEPENDENT CONTRACTOR**

20.1 Consultant is and shall remain an independent contractor and is not an employee or agent of the Town. Services provided by Consultant shall be by employees of Consultant working under the supervision and direction of Consultant. Nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees, or representatives of the Town. Consultant agrees that it is a separate and independent enterprise from the Town.

20.2 Consultant shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with Consultant. This Agreement shall not be construed as creating any joint employment relationship between Consultant and the Town, and the Town will not be liable for any obligation incurred by Consultant, including but not limited to unpaid minimum wages and/or overtime payments.

**21. ASSIGNMENT**

This Agreement shall not be assignable by Consultant without the prior approval of the Town Council as specified in Section 6, at the Town Councils' sole discretion.

[Remainder of page intentionally left blank.]

**IN WITNESS WHEREOF** the parties hereto have executed this Contract on the day and date first above written.

Attest:

TOWN OF MIAMI LAKES

By: \_\_\_\_\_  
Debra Eastman, MMC, Town Clerk

By: \_\_\_\_\_  
Frank Bocanegra, Town Manager

By: \_\_\_\_\_  
Weiss Serota Helfman  
Pastoriza Cole & Boniske, P.L.,  
Town Attorney

Signed, sealed and witnessed in the presence of:

As to the Consultant:

Akerman, Senterfitt & Eidson,  
P.A., a Florida corporation

By: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(\* In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the Contract to do so in its behalf.

## EXHIBIT "A"

### SCOPE OF SERVICES\FEDERAL LEGISLATIVE CONSULTING

Consultant's representation of the Town's interest shall be before the Federal Legislature, and the executive branch of the Federal Government, with Consultant providing the Services as set out below, including, but not limited to the following:

#### 1. **Federal Representation.**

- 1.1 Assist the Town in developing a legislative program.
- 1.2 Monitor and report on all state programs of interest to the Town, especially any local government programs that could be helpful in planning and operating the Town.
- 1.3 Represent the Town's interests before the Federal Government.
- 1.4 Monitor and track all legislation of interest to the Town.
- 1.5 Provide weekly reports during the legislative session and monthly reports during non-session months to the Town Manager and Town Attorney on all legislation being tracked. Such reports will be electronically transmitted or sent on disk to the Town Manager and Town Attorney.
- 1.6 Attend staff meetings, workshops or council meetings in the Town at the Town Manager's request.
- 1.7 As requested by the Town Manager, represent the Town's interests on matters pending before various federal agencies, committees or legislators.