

RESOLUTION NO. 09-~~770~~0

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA WAIVING PURCHASING PROCEDURES; APPROVING THE LAW FIRM OF GONZALO R. DORTA TO HANDLE LITIGATION AND LOCAL AND STATE LOBBYING EFFORT; APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER 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 and local and state lobbying efforts; and

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

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

WHEREAS, in order to effectuate Council's directive at its September 15, 2009 meeting, the Town Manager recommends that the Town Council waive the procurement procedures, requiring an RFP or RFQ for all professional services over \$25,000, in that it would be impractical because of the fact that the offer to provide the services by Dorta came about as part of a proposal to provide legal services in response to an RFQ, and this provides an opportunity for the town to obtain these services at a discount because of the way they are packaged; and

WHEREAS, the Town Council finds it is in the best interest of the Town to waive the requirements of Ordinance 09-115, providing Procurement Procedures.

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. Waiver of Purchasing Procedures. The purchasing procedures for procurement of professional services, as provided in Ordinance 09-115, are hereby waived as provided by Section 2.H., Waiver of Purchasing Procedures, of the Purchasing Procedures.

Section 3. Approval of Firm Selection. The law firm of Gonzalo R. Dorta (“Dorta”) is approved to address litigation and local and state lobbying efforts on behalf of the Town.

Section 4. 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 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 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 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.

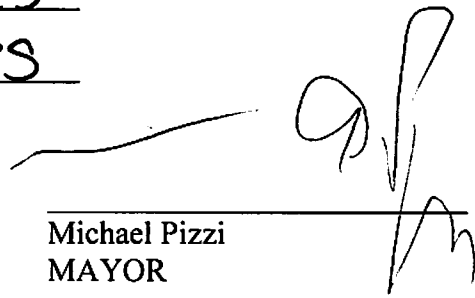
Section 8. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 10th day of November, 2009.

Motion to adopt by Councilwoman Collins, second by Councilwoman Simon

FINAL VOTE AT ADOPTION

Mayor Michael Pizzi	<u>Yes</u>
Vice Mayor Richard Pulido	<u>No</u>
Councilmember Mary Collins	<u>Yes</u>
Councilmember George Lopez	<u>Yes</u>
Councilmember Robert Meador	<u>Yes</u>
Councilmember Nick Perdomo	<u>Yes</u>
Councilmember Nancy Simon	<u>Yes</u>




Michael Pizzi
MAYOR

ATTEST:

Marijorie Tejeda
TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



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

Exhibit "A"

October 28, 2009

The Honorable Mayor and Members
of the Town Council and Frank Bocanegra, Town Manager
Town of Miami Lakes
15271 NW 60th Avenue
Suite 302
Miami Lakes, Florida 33014

AGREEMENT FOR PROFESSIONAL SERVICES

Dear Mayor, Council Members and Mr. Bocanegra:

We are pleased that you wish to engage our Firm to serve as special litigation and legislative 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 and legislative 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 and legislative counsel. In that capacity, this Firm will represent the Town in litigation that we are assigned to represent the Town or its officials and to monitor those cases in suit where the Town is using the services of outside counsel, whether assigned by a carrier or otherwise retained by the Town to serve as lead counsel in that matter.

Additionally, the Town has retained us to serve as legislative counsel and represent the Town's interests before the state legislature on matters of interest to the Town while the state legislature is in session.

2. **Monthly Fee/ Scope of Assignment.** The Town shall pay to this Firm, a flat monthly fee of \$6,670 on the first day of each calendar month in consideration for securing this relationship and having this Firm serve as both special litigation and legislative counsel. In return, this Firm will represent the Town in those matters in litigation assigned by the Town counsel to this Firm to prosecute or defend for the Town and if a litigated matter is being handled by insurance counsel or another firm, this Firm will monitor the progress of that case. Additionally, for no additional fee and within the monthly fee, this Firm will also act as legislative counsel to the Town and represent the Town's interests before the state legislature on legislative and policy issues of interest to the Town.

The Town and Firm agree that there may be a need to hire specialized counsel in an area where unique specialty is warranted where Town Counsel and this Firm determine that specialized outside 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 become co-counsel of record in the case.

3. **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 shall 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 per the terms of payment demanded by the vendor/supplier of those services.

The Firm will also be entitled as a reimbursable expense, the cost of all paralegal support services not to exceed \$90 an hour when said paraprofessional support is used by the Firm. The payment of these expenses is in addition to the monthly fee and not included in the monthly fee.

4. 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 month calendar period with or without cause.

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.

The Firm may also elect 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. If there are fees and expenses outstanding at the time the Firm serves its Notice of Termination, the Town must pay them once the Notice of Termination is served on the Town's Attorney.

5. 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 each client consents to such representation after consultation. If this letter is addressed to more than one person, your signature of this letter will constitute such consent from each of you with respect to the matter or matters specifically described in the paragraph of this letter entitled "Nature of Legal Services." It is understood that acceptance of this engagement does not prohibit the Firm from continuing to represent clients and participate in litigated or non-litigated matters unless prohibited by the ethical rules.
6. Fees for Other Services. In the event you ask us to render legal services with respect to other matters, in the absence of a written agreement specifically addressing that representation, the other matters will be handled on different terms mutually agreeable to both parties pursuant to a new agreement.

Town of Miami Lakes

October 28, 2009

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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/jcd

Town of Miami Lakes

By: _____
Authorized Representative

Print name: _____

Date: _____