

**RESOLUTION NO. 11-882**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE AGREEMENT FOR STATE LEGISLATIVE CONSULTING SERVICES WITH FUENTES CONSULTING GROUP, LLC; WAIVING COMPETITIVE BIDDING; AUTHORIZING TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT.**

**WHEREAS**, the Town of Miami Lakes (the "Town") issued a Request for Proposal ("RFP") No. 2010-07 on November 16, 2010 for the provision of State Lobbying Services and Fuentes Consulting Group, LLC (the "Contractor") submitted a response thereto; and

**WHEREAS**, the Town, through action of the Town Manager rejected all responses received in response to the RFP on January 5, 2011; and

**WHEREAS**, it is the desire of the Town Council of to appoint a consultant to provide State legislative consulting services for the State of Florida Legislative Session; and

**WHEREAS**, the Town and the Contractor have negotiated an agreement wherein the Contractor has agreed to enter into an Agreement to provide State Lobbying Services in accordance with the requirements of RFP 2010-07 and the Contractor's response thereto; and

**WHEREAS**, Section 2(H)(1) of the Town's Purchasing Procedures authorizes the Town Council, by majority vote, to waive procurement procedures when it is impractical.

**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 herein by this reference.

**Section 2. Approval of the Agreement.** The Agreement between the Town of Miami Lakes and Consultant (the "Agreement"), a copy of which is attached as Exhibit "1," 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 3. Waiver of Procurement Procedures.** The Town Council hereby waives Procurement Procedures pursuant to Section 2(H)(1) of the Town's Purchasing Procedures for impracticality and to appoint a consultant to provide State legislative consulting services for the 2011 State of Florida Legislative Session.

**Section 4. Authorization of Town Officials.** The Town Manager and/or his designee and the Town Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

**Section 5. 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 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 6<sup>th</sup> day of January, 2011.

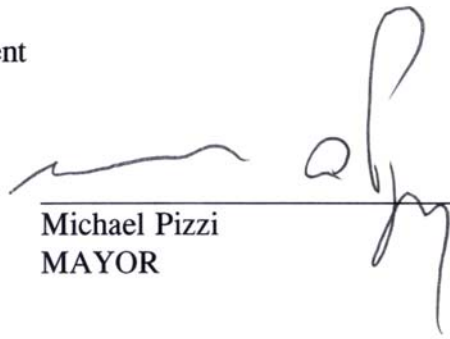
Motion to adopt by Mayor Michael Pizzi, second by Councilmember Mary Collins.

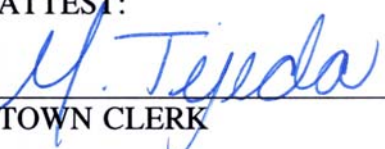
FINAL VOTE AT ADOPTION


Mayor Michael Pizzi                      yes

Vice Mayor Nick Perdomo                yes

Councilmember Mary Collins      yes  
Councilmember Tim Daubert      absent  
Councilmember Nelson Hernandez      absent  
Councilmember Ceasar Mestre      yes  
Councilmember Richard Pulido      absent

  
\_\_\_\_\_  
Michael Pizzi  
MAYOR

ATTEST:  
  
\_\_\_\_\_  
TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:  
  
\_\_\_\_\_  
TOWN ATTORNEY  
Weiss, Serota, Helfman, Pastoriza,  
Cole & Boniske, P.L.

**AGREEMENT BETWEEN**  
**THE TOWN OF MIAMI LAKES**  
**AND THE FUENTES CONSULTING GROUP**  
**FOR STATE LOBBYIST SERVICES**

THIS AGREEMENT is made and entered into this 10<sup>th</sup> day of January, 2011, by and between the Town of Miami Lakes, a Florida municipal corporation (the "Town"), and The Fuentes Consulting Group. ("Contractor").

**RECITAL**

A. WHEREAS, the Town issued a Request for Proposal ("RFP") No. 2010-07 on November 16, 2010 for the provision of State Lobbying Services and the Contractor submitted a response thereto.

B. WHEREAS, the Town, through action of the Town Manager rejected all responses received in response to the RFP on January 5, 2011.

C. WHEREAS the Town Council waived competitive bidding and authorized the Town Manager to enter into an Agreement with the Contractor.

D. WHEREAS The Town and the Contractor have negotiated an agreement wherein the Contractor has agreed to enter into an Agreement to provide State Lobbying Services in accordance with the requirements of RFP 2010-07 and the Contractor's response thereto, subject to the terms and conditions stipulated below.

WITNESSETH, that the Town and the Contractor, for the considerations herein set forth, agree as follows:

1. **SCOPE OF WORK**- The Contractor shall furnish all labor, materials, supervision, equipment, supplies, and incidentals required to perform the scope of work as outlined in the Detailed Specifications in Exhibit "A" of this Contract (the "Work").

2. **COMPENSATION/PAYMENT**

2.1 The Contractor shall be paid an amount not to exceed \$25,000 at the hourly rate of \$294.00 for the performance of all of the Work. The Contractor shall not receive the monthly fee as reflected in the Contractor's response to the RFP.

2.2 In accordance with the foregoing, the Contractor shall provide the Town with an invoice on a monthly basis within ten (10) days of the end of each month stating the individual items of the Work provided in the preceding month. Invoices submitted by Contractor shall be sufficiently detailed and accompanied by supporting documentation, acceptable to the Town, to allow for proper audit of expenditures. Contractor shall submit for approval a duly certified invoice, describing the Work performed, the total hours for each item of Work performed, the total hours worked and total charge for the Work performed. The invoice

shall reflect the total Agreement value, the amount spent to date, and the remaining balance.

- 2.3 The Town shall make payment on said invoices of approved amounts due, which are not subject to set off, as required under the Florida Local Government Prompt Payment Act. No payments shall be due or payable for Work not performed or materials not furnished.
- 2.4 Any and all additional services outside of the Detailed Specifications as defined in Exhibit "A" and performed by the Contractor, shall be at the sole discretion of the Town's Representative and shall be paid pursuant to the terms and conditions of this Contract.

3. **TERM/RENEWAL**

- 3.1 This Contract shall be effective upon execution by both parties and shall continue for a term of three (3) years (the "Term") unless earlier terminated pursuant to this Agreement.
- 3.2 The Town Manager may, at his or her sole option, extend this Contract on the same terms and conditions for up to two (2) additional one (1) year terms (the "Renewal Term"). Such Renewal Term shall be effective upon receipt of a written notice from the Town Manager to the Contractor.

4. **NON-WAIVER**- The approval, and/or acceptance of any part of the Work by the Town shall not operate as a waiver by Town of any other terms and conditions of the Contract.

5. **INDEMNIFICATION**

- 5.1 The Contractor 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 any way connected with the Contractor's performance or non-performance of any provision of this Contract including, but not limited to, liabilities arising from contracts between the Contractor and third parties made pursuant to this Contract. The Contractor shall reimburse the Town for all 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, related to, or in any way connected with the Contractor's performance or non-performance of this Contract.
- 5.2 The Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by him, on the Work. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and

orders of any public authority bearing on the performance of the Work under this Contract.

6. **CONTRACT DOCUMENTS**- The order of precedence will be the Contract, the RFP, the Proposer's Proposal and general law. The following documents shall, by this reference, be considered part of this Contract:

- a. RFP;
- b. All Addendums;
- c. Contract;
- d. Proposal, including all Forms submitted;
- e. Detailed Specifications; and
- f. Insurance Certificates.

7. **CONTRACTOR'S EMPLOYEES**

7.1 The Contractor shall at all times have a competent supervisor who thoroughly understands the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work. The Contractor's employees shall serve the public in a courteous, helpful, and impartial manner.

7.2 The Town Manager may make written request to the Contractor for the prompt removal and replacement of any personnel employed or retained by the Contractor to provide and perform services or Work pursuant to the requirements of this Agreement. Such request will specify the basis for such request. The Contractor shall respond, in writing to the Manager within seven (7) days of receipt of such request with either the removal and replacement of such personnel or written justification as to why that should not occur. The Town shall make the final determination as to the removal of unsatisfactory personnel from Work assigned by Town. The Contractor agrees that the removal of any of its employees does not require the termination or demotion of said employee(s).

7.4 The Contractor 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 Contract. Background checks shall be performed prior to the performance of any Work by the employee under the Contract. 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.

8. **INSURANCE**- The Contractor shall secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts necessary to protect its interest and the interest 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 the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include a minimum of:

- 8.1 **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident. The Worker's Compensation Insurance may be waived by the Town should the Contractor provide documentation from the State of Florida ("State") that the state that the Contractor is not required to carry said insurance as it employs less than five workers.
- 8.2 **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the Contractor and the Town against claims for injuries to members of the public and/or damages to property of others arising from the Contractor's use of motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.
- 8.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the Contractor and the Town against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the Contractor or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent Contractors and Products and/or Completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.
- 8.4 **Certificate of Insurance:** The Contractor shall provide the Town's Representative 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 Contract and shall state that such insurance is as required by this Contract. The Town reserves the right to require the Contractor 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.

8.5 **Additional Insured** - 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 the Contractor in performance of this Contract. The Contractor's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town or shall be in excess of and shall not contribute to the Contractor's insurance. The Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

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

9. **ASSIGNMENT AND AMENDMENT**- No assignment by the Contractor of this Contract or any part of it, or any monies due or to become due, shall be made, nor shall the Contractor hire a subcontractor to perform its duties under this Contract without prior written approval of the Town. This Contract may only be amended, by the parties, with the same formalities as this Contract.

9. **TERMINATION**

9.1 Either party may terminate this Contract without cause upon thirty (30) days written notice to the other party.

9.2 Upon notice of such termination, the Town shall determine the amounts due to the Contractor for satisfactory and approved Work performed up to the date of termination. The Contractor shall not be entitled to payment of any lost profits or for Work performed after the date of termination.

9.3 After receipt of a notice of termination, and except as otherwise directed, the Contractor shall stop all Work under this Contract, and shall do so on the date specified in the notice of termination.

9.4 The Town may terminate this Contract upon five (5) days written notice if the Contractor defaults on any material term of this Contract. The Town will be responsible only for the cost of Work accepted and approved by the Town's Representative at the time of termination.



10. **CHOICE OF LAW; VENUE**- This Contract shall be governed by the laws of the State of Florida. Venue for any action brought hereunder shall be proper exclusively in Miami-Dade County, Florida.
11. **ATTORNEY'S FEES**- In the event either party to this Contract is required to retain legal counsel to enforce any of its rights under this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party together with court costs incurred in any litigation at any trial and appellate proceedings.
12. **ACCESS TO PUBLIC RECORDS**- The Contractor shall comply with the applicable provisions of Chapter 119, Florida Statutes. The Town shall have the right to immediately terminate this Contract for the refusal by the Contractor to comply with Chapter 119, Florida Statutes.
13. **INSPECTION AND AUDIT**- During the term of this Contract and for three (3) years from the date of Termination the Contractor shall allow Town representatives access during reasonable business hours to the Contractor'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 the Contractor was paid for services not performed, upon receipt of written demand by the Town, the Contractor shall remit such payments to the Town. The Contractor shall retain all records associated with this Contract for a period of three (3) years from the date of Termination.
14. **SEVERABILITY**- If a term, provision, covenant, contract or condition of this Contract is held to be void, invalid, or unenforceable, the same shall not affect any other portion of this Contract and the remainder shall be effective as though every term, provision, covenant, contract or condition had not been contained herein.
15. **WAIVER OF JURY TRIAL**. The parties irrevocably, knowingly and voluntarily agree to waive their rights to a trial by jury in any action to enforce the terms or conditions of this Contract.
16. **COUNTERPARTS**- This Contract may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.
17. **INDEPENDENT CONTRACTOR\SUBCONTRACTOR**
  - 17.1 It is expressly agreed and understood that the Contractor shall be in all respects an independent contractor as to Work, and that the Contractor is in no respect an agent, servant or employee of the Town. Accordingly, the Contractor shall not attain, nor be entitled to, any rights or benefits of the Town, nor any rights generally afforded classified or unclassified employees. The Contractor further understands that Florida Worker's Compensation benefits available to employees of the Town are not available to the Contractor, and agrees to provide worker's

compensation insurance for any employee or agent of the Contractor rendering services to the Town under this Contract.

17.2 All employees and subcontractors of the Contractor shall be considered to be, at all times, the sole employees or contractors of the Contractor, under its sole discretion and not an employee, contractor or agent of the Town.

17.3 If subcontractors are to be used during the term of the Contract, a list of such subcontractors shall be provided to the Town's Representative, and shall be used subject to his or her approval.

18. **ACCIDENT PREVENTION AND REGULATIONS** – Precautions shall be exercised at all times for the protection of persons and property. The Contractor and subcontractors shall conform to all OSHA, Federal, State, County and Town regulations while performing under the terms and conditions of this Contract. Any fines levied by the above-mentioned authorities, because of inadequacies to comply with these requirements, shall be borne solely by the Contractor responsible for same.

19. **NOTICES-** Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail, private postal service or hand delivery to:

Town:

Town of Miami Lakes  
15700 NW 67<sup>th</sup> Avenue  
Miami Lakes, FL 33014  
Attention: Town Clerk

Contractor:

Jose K. Fuentes  
The Fuentes Consulting Group  
3339 Virginia Street  
Suite 126  
Miami, Florida 33154

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

Attest:

TOWN OF MIAMI LAKES

By: M. Tejedra  
Marlorie Tejedra, Town Clerk

By: [Signature]  
Mayor Michael Pizzi

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

Signed, sealed and witnessed in the presence of:

As to the Consultant:

The Fuentes Consulting Group

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

By: [Signature]  
Name: Jose Fuentes  
Title: Principal

(\* 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"

### DETAILED SPECIFICATIONS

- A. Review on a continuing basis all existing and proposed State of Florida policies, programs and legislation affecting the Town. Identify those issues that may affect the Town or its citizens, and regularly inform the Town as to such matters, both orally and in writing. Provide legislative expertise and consulting services.
- B. Review the legislative policy statements of other governments and lobbying groups for the purpose of identifying issues, which may either positively or negatively affect the Town.
- C. Assist the Mayor, Town Manager and staff in the coordination and development of the Town's legislative program. These issues may include: public safety, law enforcement, business attraction and retention, infrastructure improvements, telecommunications, transportation, environmental, affordable housing, economic development, revenue enhancement, mandates and other issues.
- D. Monitor State of Florida legislative committee meetings, agencies hearings and meetings prior to and during the regular and special legislative session(s) at which specific issues within the Town's adopted legislative program are considered, as well as others that may arise that affect the Town.
- E. Work with the Mayor, Town Manager and staff to develop special or general legislation in keeping with, or supportive of, the Town's adopted legislative program.
- F. Develop and evaluate strategy for support, opposition or amendment of pending legislation.
- G. Testify and lobby before the State of Florida Senate, House of Representatives, executive branch and cabinet as necessary on behalf of the Town during the annual legislative sessions, extended or special sessions(s) at legislative committee meetings and during floor debate in both houses of the State of Florida's government.
- H. Appear and testify before State agency hearings, rule making proceedings and other administrative agency or legislative meetings, as required, to promote, oppose, and seek passage of legislation or rules affecting the Town or its citizens, and specific legislation contained in the Town's legislative program.
- I. Upon request, coordinate appointments/meetings between the Mayor or other Town staff, and appropriate State officials and legislators.

- J. Prepare and submit reports that may include but not limited to: personal briefings and information bulletins pertinent to any legislation, rules or regulations, and other State policies or programs that affect the Town and its citizens either directly or indirectly. Written summary report shall be submitted at the end of each week detailing legislative action taken during the week, status of legislative issues, anticipated action during the upcoming week, and suggested action plan that the Mayor or Town staff may implement. A report summarizing the status of the Town's legislative priorities shall be provided within one week of the closing of the regular or extended session and a more detailed final written report on specific legislation and new requirements affecting the Town shall be provided within a reasonable time period, not to exceed thirty days from the close of session.
- K. Prepare and submit periodic written reports (at least monthly) during those months that the State of Florida Senate and House of Representatives is not in session, on issues of interest or concern to the Town. Such information may include, but not limited to action taken at interim committee meetings, rule making hearings, status of studies underway, and advance notice of legislation being proposed.
- L. Upon request by the Town, assist the Town in coordinating applications and obtaining State of Florida grants. The consultant is not expected to prepare grant applications.

Consultant shall perform the scope of services as contained in the RFP. The scope of services shall not be deemed to be all-inclusive and may be changed from time to time as authorized by Town Manager.

**[END OF DOCUMENT]**