

RESOLUTION NO. 11-901

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE RETENTION OF THE LAW FIRM GREENSPOON MARDER, P.A., AS CO-COUNSEL, TO ASSIST THE TOWN'S LITIGATION ATTORNEY, GONZALO R. DORTA, IN HANDLING THE CASE OF THE ASSOCIATION FOR THE DISABLED AMERICANS, INC., AND ALAN RIGERMAN VS. THE TOWN OF MIAMI LAKES; APPROVING THE RETAINER AGREEMENT; AUTHORIZING TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") has been sued, and now has a pending lawsuit, involving a specialized type of case, an Americans With Disabilities Act (ADA) matter, styled The Association for the Disabled Americans Inc., and Alan Rigerman vs. The Town of Miami Lakes, Inc., Civil Action No. 1:11-CV-21377-DLG, In the United States District Court for the Southern District of Florida; and

WHEREAS, the matter will be handled by the Town's Litigation Counsel, Gonzalo R. Dorta; and

WHEREAS, the Town finds it necessary and appropriate to retain co-counsel to assist in the litigation of the case; and

WHEREAS, Gonzalo R. Dorta, has requested that the law firm of Greenspoon Marder, PA. act as co-counsel, due to the experience of the firm in handling these types of specialized matters; and

WHEREAS, the Town Council finds that retaining Greenspoon Marder as co-counsel is in the best interests of the Town; and

WHEREAS, the Town Council authorizes the Town Manager to retain Greenspoon Marder as co-counsel in this matter.

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 Retention as Co-counsel. The Town Council authorizes the Town Manager to retain Greenspoon Marder, PA, as co-counsel in the matter, The Association for the Disabled Americans, Inc., and Alan Rigerman vs.The Town of Miami Lakes, Civil Action No. 1:11-CV-21377-DLG., In the United States District Court for the Southern District of Florida.

Section 3. Approval of the Retainer Agreement. The Retainer Agreement between the Town of Miami Lakes and Greenspoon Marder, PA, a copy of which is attached hereto, together with such 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/or his designee and the Town Attorney are authorized to take all actions necessary to implement the terms and conditions of the Greenspoon Marder, PA, Retainer 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 up to the amount of \$25,000.00, which is the preliminary estimate for fees and costs assuming that the matter is resolved before it goes too far, and the sum of \$25,000.00 is hereby allocated from the Town's FY 09-10 carry over funds, in order to implement the terms and conditions of the Greenspoon Marder, PA, Retainer Agreement.

Section 6. Execution of the Retainer Agreement. The Town Manager is authorized to execute the Retainer Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of Greenspoon Marder, PA, Retainer Agreement and to execute any extensions and/or amendments to the Retainer Agreement, subject to the approval as to form and legality by the Town Attorney.

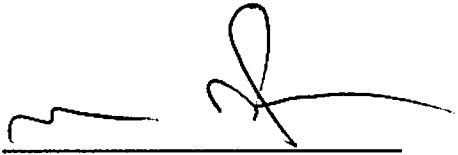
Section 7. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 14 day of June , 2011.

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

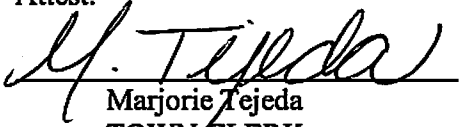
FINAL VOTE AT ADOPTION

Mayor Michael Pizzi	<u>Yes</u>
Vice Mayor Nick Perdomo	<u>Yes</u>
Councilmember Mary Collins	<u>Yes</u>
Councilmember Tim Daubert	<u>No</u>
Councilmember Nelson Hernandez	<u>Yes</u>
Councilmember Ceasar Mestre	<u>Yes</u>
Councilmember Richard Pulido	<u>Absent</u>



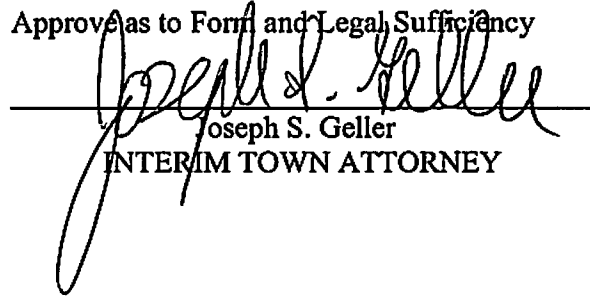
Michael Pizzi
MAYOR

Attest:



Marjorie Tejada
TOWN CLERK

Approved as to Form and Legal Sufficiency

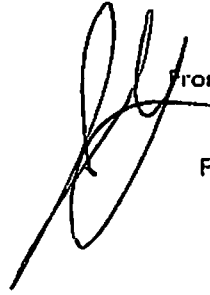


Joseph S. Geller
INTERIM TOWN ATTORNEY

GreenspoonMarder

ATTORNEYS AT LAW

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MEMORANDUM

TO: Honorable Mayor Michael Pizzi and Town Council

DATE: June 7, 2011

RE: The Association for the Disabled Americans, Inc., and Alan Rigerman vs. The Town of Miami Lakes

Attorney Gonzalo R. Dorta, the Town Litigation Counsel, has requested that the Law Firm of Greenspoon Marder act as co-counsel in this case, which is an Americans With Disabilities Act (ADA) case. This is a specialized type of case and requires an attorney familiar with this type of matter. Attorney Peter Siegel, a partner at Greenspoon Marder, specializes in these types of cases and has handled hundreds of these matters, and is an expert in the field. The terms of the retention will be per the attached retainer agreement. The preliminary estimate is \$25,000.00 for both fees and costs assuming that the matter is resolved before it goes too far. These cases rarely go to trial. The funds will be allocated from the Town's FY 09-10 carry-over funds.

This retention is consistent with the terms of the Agreement between the Town of Miami Lakes and the law firm of Gonzalo R. Dorta, specifically, paragraph 2 thereof, wherein it is contemplated that specialized counsel may need to be retained in matters where unique specialty is warranted. This type of matter, ADA litigation, is such a specialized area.

STANDARD SERVICE & RETAINER AGREEMENT

CLIENT: TOWN OF MIAMI LAKES

Greenspoon Marder, P.A. (the "Firm" has been requested to serve as your legal counsel, and the Firm is pleased to do so. This document states the terms under which the Firm has agreed to represent you and/or your entity ("Client").

1. INFORMATIONAL PROVISIONS.

1.1 *Matter. Association for Disabled Americans, Inc. and Alan Rigerman Vs. The Town of Miami Lakes, Inc.*

1.2 *Fees.* For the above-referenced matter, the parties agree the Firm will undertake work on the matter and bill Client on an hourly rate basis:

\$225/ hr

1.3 *Costs.* The fee understanding set forth above does not include costs. Costs expected to be incurred at this point in time include: **ADA Expert Fees: \$225.00 per hr for general accessibility consulting; \$300 per hr for deposition time and/or Expert Witness; Technical Staff \$150.00 per hr; and Administrative Staff \$75.00 per hr**

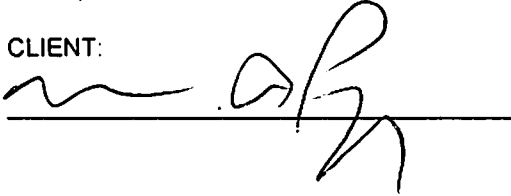
1.4 Co-Counsel.

Co-counsel with Gonzalo R. Dorta

(The terms on the reverse side are included in this agreement)

READ, ACCEPTED AND APPROVED:

CLIENT:



GREENSPOON MARDER, P.A.

By: 

For the Firm

GUARANTORS:

STANDARD PROVISIONS

2. SERVICES. Greenspoon Marder, P.A. hereby agrees to perform legal services for Client to the best of its ability, in an ethical manner for any matters requested to be handled by the Firm. The provisions of this Agreement shall apply to all matters requested to be performed by the Firm unless a separate written agreement is entered into.

3. FEES. In general, unless otherwise provided in Paragraph 1.02 of this Agreement, the Firm's fees will be based upon the amount of time which is devoted to Client's matter. In addition to the hourly charge, additional fees for professional services may be billed and computed as provided in accordance with the provisions set forth in Paragraph 13. An hourly computation for fees will be based upon the hourly rate of attorneys, law clerks and paralegal personnel in effect at the time the services are rendered. A schedule of the current range of hourly rates will be supplied upon Client's request at any time. To the extent the time of paralegals and law clerks are utilized, Client's overall fee will be lower. The Firm's hourly rates for personnel may be modified over time and are generally changed periodically.

Billings based upon time include, but are not limited to, time spent for conferences, telephone calls, drafting and reviewing documents, letters, negotiations, legal research, court time, travel to and from and time spent at locations away from the Firm's office.

4. COSTS. Each billing statement reflects all out-of-pocket expenses incurred which are payable by Client. Client understands that the expected costs set forth in Paragraph 1.03 of this Agreement are only estimates, and that the actual costs may include, but are not limited to, long distance telephone calls, lien and title searches, duplication, courier services, postage, freight, transportation expenditures, court reporter charges, filing fees, service of process and/or recording fees, investigation, deposition and other litigation costs, witness fees, computer searches, and other third-party costs normally incurred in the rendition of legal service. By this Agreement, the Firm shall have the authority to make advances on Client's behalf of such amounts for costs and disbursements as the Firm shall determine to be in the best interest of representing Client. Should the services of the Firm become subject to sales tax, such tax shall be added to the monthly statement and shall be due and payable by Client simultaneously with the payment of the legal fees and costs.

5. DEPOSIT. In addition to the initial retainer (deposit) and the automatic replenishing set forth in Paragraph 1.04 of this Agreement the Firm shall have the right to request further retainers should it become necessary (in the Firm's sole discretion) to effectively represent Client. Retainers shall be applied against fees and costs incurred. The client specifically acknowledges the Firm shall have the authority to stop all work on all matters of Client without further notice in the event a deposit is requested, and it is not paid promptly by Client. In the event Client's deposit exceeds the Firm's fees and costs incurred, any excess shall be refunded to Client within a reasonable period of time after the Firm's services have been completed or terminated and a final accounting can be made.

6. TERMINATION OF SERVICES. Client or the Firm shall have the right to terminate their relationship regarding future services of the Firm at any time (without penalty) upon notice provided to the other.

7. BILLING STATEMENTS. The Firm will provide Client with monthly statements for professional fees and costs incurred or at the conclusion of the matter, unless stated otherwise, and the stated amount is due and payable upon receipt.

Failure to pay any bill within thirty (30) days after its date will allow the Firm to charge interest up to the highest rate allowed or as may be allowed by law on the unpaid balance. Such rate may be charged on the unpaid balance from the date such amounts are more than thirty (30) days outstanding.

Client specifically acknowledges that if nonpayment of any Firm bill continues for more than thirty (30) days from the date of any statement, and there have not been any other arrangements made for payment, the Firm shall have the right to discontinue providing legal services on all matters of Client without further notice.

8. REVIEW OF CHARGES. Client shall have the right to review the details or composition of all bills rendered which are primarily based upon hourly rates. All statements will be deemed acceptable unless contested or questioned by Client within thirty (30) days of their date.

9. DISHONORED CHECKS. Checks by Client to the Firm which are not honored shall allow the Firm to impose a charge of FIFTEEN DOLLARS (\$15.00) for each such check.

10. LIABILITY FOR BILLS OF CORPORATIONS, LIMITED LIABILITY COMPANIES AND PARTNERSHIPS.

It is understood and agreed that in matters relating to a corporation, limited liability company, a partnership or other entity, the Firm will bill the entity directly for legal services. However, it is expressly understood and agreed that the Firm shall have a claim against the directors, officers, members, stockholders partners or manager, in their individual capacities, jointly and severally, for the entire amount due. Clients and Guarantors executing this document guarantee payment of all amounts which become due to Firm in their individual capacities.

11. FINAL BILLING UPON TERMINATION OF SERVICES. Upon termination of services, Client shall remain liable to the Firm for all costs and fees incurred until written notice of the termination is actually received by the Firm. In litigation matters where court approval for termination is necessary, the Firm shall be entitled to charge all time and fees required to obtain consent of the applicable court to be relieved from providing further services. In the event the representation terminated concerns a matter in which the Firm agreed to perform services for a fixed or "flat" fee, the Firm shall be entitled to a prorata portion of the fee, based upon the amount of actual time and skill devoted to the matter as it related to the total time and skill estimated by the Firm to have been involved in the matter had it been completed by the Firm.

12. COURT AWARDS TO REIMBURSE LEGAL FEES AND COSTS. In litigation matters, a court may order a Client's adversary to pay all or part of the Firm's fees and/or costs. Because fee and cost awards are totally unpredictable (notwithstanding any contract or statutory language), court orders must be considered to be merely potential receivables and Client shall be responsible for satisfying all bills rendered in a timely manner. Amounts received pursuant to a court order will be credited to Client's account or refunded to Client if in excess of the amount outstanding. A court award of fees, if any, will not set or limit the Firm's fee in any way.

13. OTHER FACTORS WHICH MAY AFFECT AMOUNT OF BILLING. Unless otherwise provided in Paragraph 1.02 of this Agreement, billings will be based primarily on time and the hourly rate of the Firm's personnel as described in Paragraph 3 of this Agreement. However, additional circumstances such as the result achieved, the amount involved, the novelty, difficulty of specialized nature of the matter, expediting a matter, a significant verdict, judgment or settlement, the skill required to perform the legal services properly, the experience, reputation and ability of the lawyer or lawyers performing the services for the adverse party or parties, if any, and the time frame in which the work is required to be completed can at the Firm's discretion, result in additional fees.

14. DISCLOSURES. The provisions of this Agreement, in the Firm's discretion, may be disclosed to a court in connection with any application by the Firm of fees for services which may be rendered on Client's behalf, and the Firm has the right to advise a court of any amounts which it has received on account of fees.

15. PROPERTY LIEN. The Firm shall have a lien on all of Client's documents, property or money in the Firm's possession for the payment of all sums due it relating to any and all matters of Client.

16. COLLECTION OF FEES AND COSTS. In the event it is necessary to institute suit for the collection of fees and costs due the Firm by Client, Client will pay, in addition to such fees and advances, all expenses necessitated thereby, including reasonable attorneys' fees and court costs. In the event the Firm utilizes its attorneys to perform collection services, the Firm will be entitled to its prevailing rates for legal services and costs incurred.

17. RESULTS. Client acknowledges that the Firm has not and cannot guarantee the outcome of any phase of the matter or matters for which the Firm is retained, as all expressions relative thereto can only be an attorney's best estimate or position expected to be taken.

18. MISCELLANEOUS. The law of Florida applies to this Agreement. If the law does not allow all of the provisions of this Agreement, the rest of the provisions shall still remain effective. The failure of any party in any instance to insist upon strict performance of the provisions of this Agreement shall not be construed to be a waiver or continue to remain in full force and effect. This agreement shall be binding upon the heirs, successors and assigns of the parties. This agreement may only be amended or modified in writing.