



WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

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March 5, 2020

Via Email to Esmond Scott, City Manager

The Honorable Anthony DeFillipo and City Commission
City of North Miami Beach
17011 NE 19th Avenue, 4th Floor
North Miami Beach, FL 33162

**Re: Engagement Agreement – City of North Miami Beach
City Attorney Services**

Dear Mayor DeFillipo and Commissioners:

We are pleased that you wish to engage our Firm to perform legal services for the City of North Miami Beach (the “City”), as its City Attorney. We appreciate your initial vote of confidence, and we are, in turn, confident of our ability to continue representing the City in an expanded role. From our experience, we have found that all clients appreciate a frank and open discussion and understanding of the services that we will perform and the basis upon which they will be expected to pay for those services.

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 you, 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 you will make payment.

1. **Nature of Legal Services.** We will serve as your City Attorney. Our services will include handling the City’s day-to-day legal matters from sunshine rules, public records, and ethics to procurement and contracts, planning and zoning, code enforcement, police matters, and public works and utilities, legislative matters, and preparation of Commission items. We will maintain a regular presence at City Hall—5 days per week, (providing regular latitude for absences, sickness, unavoidable conflicts, or circumstances beyond our control), attend all Regular, Special, Planning and Zoning, Code, PUC, and Civil Service Board meetings, and participate in routine meetings with staff and tasks associated with the regular operation of the City. We will also continue those practices that you have come to expect such as, without limitation, regularly responding to resident concerns and constant access and open lines of communication with you and administration personnel. We will be available, accessible, and responsive to the Mayor, Commission and the City Administration, as needed in person and via telephone (office and cellular phone). These services will provided on a flat fee basis as set forth in paragraph 2.

As is currently the practice for the City, our flat fee representation will not include litigation, labor and employment, real estate, public private partnerships, municipal bonds and other complex financial matters, construction, eminent domain, special environmental matters and other special projects. Such matters will continue

to be billed on a monthly basis as currently charged. All litigation currently being handled by outside counsel will continue to be handled in that manner. We will report to the commission any new litigation on a monthly basis. We may recommend outside counsel handle litigation where it is more economical to do so.

While engaged as City Attorney, we will designate two attorneys to be principally responsible for attending to the needs of the City. We will likely use two (2) to four (4) support attorneys to round out the City's team. I will be designated as one of the lead attorneys and, subject to unavoidable conflicts that may occur, I will be in attendance at regular Commission meetings. We are capable of handling specialized matters that may arise from time to time, and we will bring those to the Administration and Commission's attention as they arise. Specialized matters will be charge separately at current rates. While the our team will be augmented from time to time with specialized attorney, NMB will have a consistent team as its City Attorney(s) and Deputy/Assistant City Attorney(s).

2. Fees for Services. You will be charged and agree to pay for our legal services a monthly fee of \$55,000.00. Please note that this fee will cover all general services referenced above in Section 1, code enforcement matters (including, but not limited to, representing the City during Code Compliance Board hearings), and land use and zoning matters (except as covered below). In order to keep pace with the inflation of regular business costs, it is agreed that this contract will follow the City's policy of adjustment based on the annual change in the Consumer Price Index as established by the Bureau of Labor and Statistics and applicable to the Miami-Fort Lauderdale Area, to be requested thirty days prior to the expiration of the then-current term. For new matters excluded under general services that we may handle, we are proposing a reduced hourly rate of \$250.00, reserving for the Firm the ability to charge a lower hourly rate for paralegals or to propose terms more advantageous to the City for special situations, such as, without limitation, flat fees for financial transactions. For the review of private development applications only, the Firm will charge a reduced hourly rate of \$395.00, which will be charged against the applicant and recovered pursuant to Section 24-170 of the City Code.

3. Costs. In addition to the attorneys' fees discussed in paragraph 2, certain routine expenses will be incurred on your behalf ("Routine Expenses"). Routine Expenses include, postage, computerized research charges (Westlaw charges vary from search to search and should be less than that which the City currently pays for the service), courier charges and express mail charges, filing fees, recording costs, court reporter costs (including the costs of transcripts and court reporter's fee for attendance), court costs (such as filing fees, service of process, subpoena costs, witness fees, etc.), mediator fees, accounting and appraisal fees, expert fees and expenses, trial/hearing exhibit costs and investigation costs, will be itemized and billed to you. Copying and printing will not be charged. The firm will also not charge mileage or tolls for travel to and from the City.

4. Payment of Fees and Costs. Our invoices will be submitted to the City on a monthly basis and each invoice will be due and payable when rendered. We stand ready and willing to discuss any invoice. Otherwise, we recognize that the City will follow Florida's Prompt Payment Act in the disposition of our invoices. Should a dispute arise at to charges, we will work in good faith to resolve, further recognizing that the City and our firm have various forms of dispute resolution at our disposal.

5. Termination of Representation. This agreement may be terminated at any time upon written notice following a majority decision of the City Commission. Upon termination of our representation and payment of any pending invoices for work performed, we will provide the City with any and all records not yet in the City's

possession in paper and/or electronic format, as required by Chapter 119, Florida Statutes. We will facilitate a transition to the new attorney or firm in the manner requested by the City. Other than fees for work already performed, there will be no termination or penalty fees associated with the termination of our agreement.

6. Withdrawal from Representation. We reserve the right to withdraw from representing the City if it misrepresents or fails to disclose material facts to us, if we disagree about the course of action that should be pursued, or if there exists legal conflicts that requires our withdrawal.

7. 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 such 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."

8. Commencement of Representation. We propose commencing representation on March 6, 2020. We will work with the current City Attorney to facilitate an effective transition.

We appreciate your confidence in our Firm and assure you that we will make every effort to perform our services in a prompt and efficient manner. If you have any questions or comments concerning this engagement letter, please let me know. Otherwise, if approved by the Commission, please designate an individual to execute and return.

Very truly yours,

WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L.

By: _____

Daniel A. Espino

AGREED AND ACCEPTED on this ____ day of March 2020.

CITY OF NORTH MIAMI BEACH

By: _____

