

RESOLUTION NO. 11 –118

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA APPROVING THE AGREEMENT BETWEEN THE CITY AND THE OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA FOR THE REIMBURSEMENT OF COSTS INCURRED BY THE STATE ATTORNEY'S OFFICE IN CONNECTION WITH THE PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE CITY OF DORAL'S CODE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Doral (the "City") has found it necessary in the past, and will continue to find it necessary in the future, to adopt ordinances to maintain and improve the health, safety and welfare of the City and its residents; and

WHEREAS, the violation of some of these ordinances actually represent criminal violations enforceable by prosecution in the judicial system; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the Office of the State Attorney in each county to prosecute municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the local government for reimbursement; and

WHEREAS, the City Council believes that full enforcement of, and prosecution of criminal violations of, the City's Code of Ordinances is in the best interest of the City and its residents; and

WHEREAS, the City Council finds that it is more effective and efficient to contract with the Office of the State Attorney for the Eleventh Judicial Circuit of Florida to prosecute violations of the ordinances of the City.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF DORAL AS FOLLOWS:**

Section 1. The City Council hereby approves the Agreement with the Office of the State Attorney for the Eleventh Judicial Circuit of Florida for the reimbursement of costs incurred by the State Attorney's Office in connection with the prosecution of certain criminal violations of the City of Doral's Code, substantially in the form of Exhibit "A" attached hereto. The City Manager is hereby authorized to execute the Agreement, subject to any non-substantial changes that are approved by the City Manager and the City Attorney.

Section 2. This Resolution shall become effective immediately upon its adoption.

[Section left blank intentionally]

The foregoing Resolution was offered by Councilman Boria who moved its adoption. The motion was seconded by Councilwoman Rodriguez and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Michael DiPietro	Yes
Councilman Luigi Boria	Yes
Councilman Pete Cabrera	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED and ADOPTED this 12th day of October, 2011.



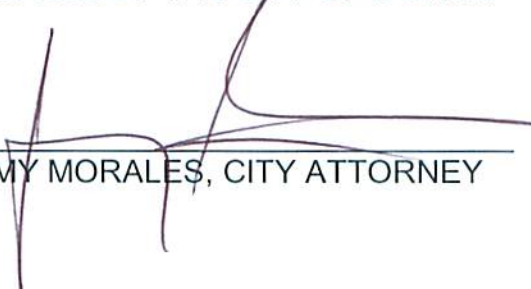
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE CITY OF DORAL:



JIMMY MORALES, CITY ATTORNEY

**AGREEMENT BETWEEN THE CITY OF DORAL,
FLORIDA AND THE STATE OF FLORIDA, OFFICE
OF THE STATE ATTORNEY FOR THE ELEVENTH
JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE
THE STATE FOR THE COST OF STATE
ATTORNEY PROSECUTION OF CERTAIN
CRIMINAL VIOLATIONS OF THE CITY OF
DORAL'S CODE OF ORDINANCES**

This agreement is entered into this _____ day of _____, 2010, by and between the City of Doral, Florida, a political subdivision of the State of Florida (hereinafter referred to as the "City") and the Office of the State Attorney for the Eleventh Judicial Circuit of Florida (hereinafter referred to as "State Attorney").

WHEREAS, the City finds that in order to maintain and improve the health, safety, and welfare of this community, it is necessary to adequately enforce and prosecute violations of the City's Code of Ordinances; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the State Attorney to prosecute municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the City for reimbursement;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I
Services

The State Attorney agrees to prosecute municipal ordinance violations as authorized in Sections 27.02, and 27.34, Florida Statutes. The City agrees to remit, subject to the terms outlined in Article III of this agreement, to the State Attorney the required funds to reimburse for costs associated with the prosecution of violations of the Code of Ordinances for the period of October 1, 2010, through September 30, 2011. The State Attorney shall provide such clerical and professional personnel as may be required for the performance of any of the functions of the State Attorney as set forth in this agreement. This agreement does not commit the City to pay for the prosecution of Code of Ordinances violations ancillary to state prosecution or for the prosecution of municipal ordinance violations not punishable by incarceration. This agreement specifically does not authorize the State to handle appeals of municipal ordinances on constitutional grounds, which shall remain the responsibility of the City.

ARTICLE II
Terms

This agreement shall expire on September 30, 2011, unless terminated earlier pursuant to Article VII of this agreement. Under no circumstances shall the City be liable to continue or extend this agreement beyond this date. This agreement may only be amended in writing, through a document executed by duly authorized representatives of the signatories to this agreement.

ARTICLE III
Payment Schedule

The City agrees to reimburse the State Attorney on an hourly basis for services rendered at a rate of Fifty dollars (\$50) per hour. On a quarterly basis, the State Attorney shall provide the City with an invoice including, but not limited to, the hours of services rendered, number of cases prosecuted as set forth in this agreement, and the total amount due for payment for the previous month. The City shall remit each payment within ten (10) days after receiving said invoice from the State Attorney.

ARTICLE IV
Responsibilities

The City does not delegate any of its responsibilities or powers to the State Attorney other than those enumerated in this agreement. The State Attorney does not delegate any of its responsibilities or powers to the City other than those enumerated in this agreement.

ARTICLE V
Reporting

All required reports shall be submitted to the City Manager and the City Attorney.

ARTICLE VI

Indemnification

It is expressly understood and intended that the State Attorney is only a recipient of the reimbursements paid by the City and is not an agent of the City. The respective parties agree, subject to the provisions of Chapter 768.28 (17), Florida Statutes, that they will hold each other harmless from any claims arising from this agreement.

ARTICLE VII

Termination

Either party may terminate this agreement at any time with or without cause by furnishing written notice to the other party with no less than ninety (90) days notice.

ARTICLE VIII

Service Charges

This agreement is contingent upon all City funding provided, and any interest earned thereon, not being subject to any State service charges or administrative assessments.

ARTICLE IX

Non-Discrimination

The State Attorney agrees to abide and be governed by Title II of the Americans with Disabilities Act of 1990, Title VI and VII, Civil Rights Act of 1964 (42 USC 200d, e) and Title VIII of the Civil Rights Act of 1968, as amended, which provides in part that there will not be discrimination of race, color, sex, religious background, ancestry, or national origin in performance of this contract, in regard to persons served, or in regard to

employees or applicants for employment and it is expressly understood that upon receipt of evidence of discrimination, the City shall have the right to terminate said agreement.

IN WITNESS THEREOF, the parties have caused this agreement to be executed by their respective and duly authorized officers the day and year first above written.

City of Doral

By: _____
Yvonne Soler-McKinley
City Manager

ATTEST:

Barbara Herrera, City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Jimmy Morales, City Attorney

ATTEST

State Attorney's Office
Eleventh Judicial Circuit

By: _____

By: _____
Don L. Horn
Chief Assistant State Attorney
for Administration



STATE ATTORNEY

ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
E. R. GRAHAM BUILDING
1350 N.W. 12TH AVENUE
MIAMI, FLORIDA 33136-2111

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

TELEPHONE (305) 547-0100

October 11, 2010

Ms. Yvonne Soler-Mckinley
City Manager
City of Doral
8120 NW 53 Street, Suite 103
Doral FL 33166

Dear Ms. Soler-Mckinley:

Legislation passed in 2004 to implement Revision 7 to Article V of the Florida Constitution provides that the State Attorney may prosecute municipal ordinances only if (1) the ordinance violation is ancillary to a felony prosecution (s. 27.02(1), Florida Statutes), or (2) the county/municipality has entered into a contract with the State Attorney for these prosecutions (s. 27.34(1), Florida Statutes).

Enclosed please find the following:

1. Proposed agreement for the prosecution of ordinance violations for the period of October 1, 2010 – September 30, 2011. Please sign three originals and return to this office as soon as possible. If you desire to make changes to the contract and want an electronic version of this document, please contact me at donlhorn@miamisao.com and I will forward you a copy. This contract is for the prosecution of ordinances only; the State Attorney's Office has no statutory authority to handle appeals relating to the constitutionality of ordinances. If you choose to not have the Office of the State Attorney prosecute municipal ordinance violations in accordance with sections 4 & 5 of Chapter 2004-265, Laws of Florida, you are requested to send a letter to that effect to the above address as soon as possible.
2. Billing for ordinance violations for your jurisdiction for the period of July 1 – September 30, 2010. The billing reflects data from the Clerk of the Court's database, which list ordinance violations for which the county/municipality is being charged a filing fee pursuant to s.27.34(1), Florida Statutes.

Ms. Yvonne Soler-Mckinley
Page 2

You are being billed at the statutorily prescribed rate of \$50 per hour. Our estimate is that, on average, it takes approximately 20 minutes per case; therefore, you are being charged at the rate of \$16.67 per case. *The total amount due can be found at the end of this letter.* Please note that this is the charge for ordinance prosecution only. Pursuant to state law, there are separate charges for indigent defense from the Public Defender and filing fees from the Clerk of the Court.

You are requested to review the invoice when you receive it. Please note items that you dispute, deduct their cost, and remit the remainder payable to the State of Florida to:

Fiscal Division
Office of the State Attorney
E. R. Graham Building
1350 N.W. 12th Avenue
Miami, FL 33136-2111

Any items under dispute will be reviewed by our staff and re-invoiced in the following quarter if necessary.

If you have any questions about the procedures discussed above, or the contract, please do not hesitate to contact me at 305-547-0564.

Number of Cases: 3

Total Cost: \$50.01

Sincerely,

KATHERINE FERNANDEZ RUNDLE
State Attorney

By: 
Don L. Horn
Chief Assistant State Attorney for Administration

DLH/ld

Enclosures

JOB-NUM: J972400 OFFICE OF THE STATE ATTORNEY - 11TH CIRCUIT DATE: 08/02/2010
PROGRAM: CJSB838 ORDINANCE BILLING REPORT REPORT PAGE: 30
ORDINANCE CHARGES FILED IN JUL, 2010

INVOICED TO: CITY OF DORAL

PAGE: 1

CASE #	POLICE #	NAME	CHARGE DATE	CHARGE NUMBER / DESCRIPTION
B10034260	DR100703013640	LOZADA	07/03/2010	21-28 NOISE/LOUD/EXCESSIVE
CASE COUNT:		1		

JOB-NUM: J972400 OFFICE OF THE STATE ATTORNEY - 11TH CIRCUIT DATE: 09/02/2010
PROGRAM: CJSB838 ORDINANCE BILLING REPORT REPORT PAGE: 29
ORDINANCE CHARGES FILED IN AUG, 2010

INVOICED TO: CITY OF DORAL

PAGE: 1

CASE #	POLICE #	NAME	CHARGE DATE	CHARGE NUMBER /	DESCRIPTION
B10040118	DR100731015594	HERMOSO	07/31/2010	21-28	NOISE/LOUD/EXCESSIVE
CASE COUNT:		1			

JOB-NUM: J972400 OFFICE OF THE STATE ATTORNEY - 11TH CIRCUIT DATE: 10/02/2010
PROGRAM: CJSB838 ORDINANCE BILLING REPORT REPORT PAGE: 31
ORDINANCE CHARGES FILED IN SEP, 2010

INVOICED TO: CITY OF DORAL

PAGE: 1

CASE #	POLICE #	NAME	CHARGE DATE	CHARGE NUMBER / DESCRIPTION
B10045379	DR100826017523	ARRASTIA	08/26/2010	8A-276(B) COMM VEH MARK VIOL
CASE COUNT:		1		

RESOLUTION NO. 10 – 178

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA APPROVING THE AGREEMENT BETWEEN THE CITY AND THE OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA FOR THE REIMBURSEMENT OF COSTS INCURRED BY THE STATE ATTORNEY'S OFFICE IN CONNECTION WITH THE PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE CITY OF DORAL'S CODE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Doral (the "City") has found it necessary in the past, and will continue to find it necessary in the future, to adopt ordinances to maintain and improve the health, safety and welfare of the City and its residents; and

WHEREAS, the violation of some of these ordinances actually represent criminal violations enforceable by prosecution in the judicial system; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the Office of the State Attorney in each county to prosecute municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the local government for reimbursement; and

WHEREAS, the City Council believes that full enforcement of, and prosecution of criminal violations of, the City's Code of Ordinances is in the best interest of the City and its residents; and

WHEREAS, the City Council finds that it is more effective and efficient to contract with the Office of the State Attorney for the Eleventh Judicial Circuit of Florida to prosecute violations of the ordinances of the City.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF DORAL AS FOLLOWS:**

Section 1. The City Council hereby approves the Agreement with the Office of the State Attorney for the Eleventh Judicial Circuit of Florida for the reimbursement of costs incurred by the State Attorney's Office in connection with the prosecution of certain criminal violations of the City of Doral's Code, substantially in the form of Exhibit "A" attached hereto. The City Manager is hereby authorized to execute the Agreement, subject to any non-substantial changes that are approved by the City Manager and the City Attorney.

Section 2. This Resolution shall become effective immediately upon its adoption.

[Section left blank intentionally]

The foregoing Resolution was offered by Councilman Cabrera who moved its adoption.
The motion was seconded by Councilman Vice Mayor DiPietro and upon being put to a
vote, the vote was as follows:

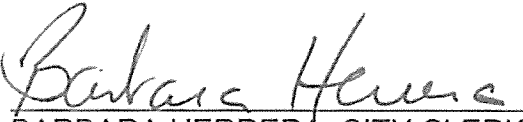
Mayor Juan Carlos Bermudez	Yes
Vice Mayor Michael DiPietro	Yes
Councilman Luigi Boria	Yes
Councilman Pete Cabrera	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED and ADOPTED this 8th day of December, 2010.



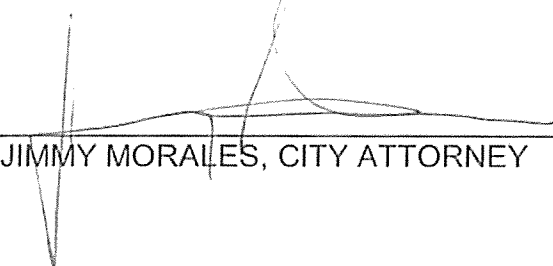
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE CITY OF DORAL:



JIMMY MORALES, CITY ATTORNEY