

**RESOLUTION NO. 10-02-08**

**A RESOLUTION OF TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE APPROPRIATIONS AND INTERGOVERNMENTAL CONSULTING FIRM OF GOMEZ BARKER & ASSOCIATES, INC., TO REPRESENT THE TOWN OF LAKE PARK BEFORE THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THE FLORIDA STATE GOVERNMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

**WHEREAS**, the Town requires the services of a professional lobbyist firm to represent the Town before the Florida State Legislature and the Governor’s Office, to ensure that the Town is fully advised with the respect to legislation that may and/or will effect the Town, and to ensure that the Town’s priorities are brought to the attention of the applicable legislative and executive branches of state government; and

**WHEREAS**, the Town of Cutler Bay, Florida (“Cutler Bay”) previously issued a Request For Proposals (“RFP”) in accordance with the requirements of the Consultant’s Competitive Negotiation Act (“CCNA”), requesting proposals from qualified appropriations and intergovernmental consulting firms interested in representing Cutler Bay at the state government level; and

**WHEREAS**, Cutler Bay received responses to the RFP from four (4) qualified firms; and

**WHEREAS**, an evaluation committee comprised of the town council of Cutler Bay, heard and received presentations from all four firms who had submitted proposals in response to the RFP, and selected the consulting firm of Gomez Barker Associates, Inc., as the most qualified firm to represent the Cutler Bay, as an appropriations and intergovernmental consultant before the executive, legislative, and other branches of the state government; and

**WHEREAS**, Town staff has recommended to the Town Commission of the Town of Lake Park, that it is in the best interest of the Town to “piggy-back” off of the Cutler Bay consulting contract, and to retain the services of Gomez Barker Associates, Inc.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AS FOLLOWS:**

**Section 1.** The foregoing recitals are true and correct findings of fact of the Town Commission of the Town of Lake Park, and are hereby incorporated herein by reference.

**Section 2.** Gomez Barker Associates, Inc. is hereby approved by the Town Commission of the Town of Lake Park to provide appropriations and intergovernmental consulting services to the Town before the executive and legislative branches of the state government, and the Mayor is hereby authorized to execute a retainer agreement between the Town and Gomez Barker Associates, Inc.. The Agreement shall be reviewed as to form and legal sufficiency by the Town Attorney.

**Section 3.** This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Commissioner Osterman, who moved its adoption. The motion was seconded by Commissioner Balius, and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR PAUL W. CASTRO	<u>  /  </u>	___
VICE-MAYOR ED DALY	<u>  /  </u>	___
COMMISSIONER CHUCK BALIUS	<u>  /  </u>	___
COMMISSIONER JEFF CAREY	<u>  /  </u>	___
COMMISSIONER PATRICIA OSTERMAN	<u>  /  </u>	___

The Town Commission thereupon declared the foregoing Resolution NO. 10-02-08 duly passed and adopted this 6 day of February, 2008.

TOWN OF LAKE PARK, FLORIDA

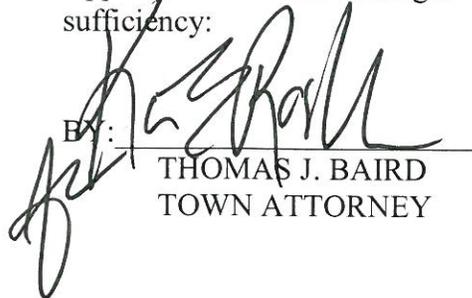
BY:   
PAUL W. CASTRO  
MAYOR

ATTEST:

  
VIVIAN MENDEZ  
TOWN CLERK



Approved as to form and legal sufficiency:

BY:   
THOMAS J. BAIRD  
TOWN ATTORNEY

## AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made this 6 day of February, 2008 between the Town of Lake Park, Florida (hereinafter referred to as "Town") and Gomez Barker Associates, Inc., a Florida for profit corporation whose principal place of business is 2350 CORAL WAY, #301 MIAMI, FLORIDA 33145 Florida (hereinafter referred to as "Gomez Barker").

**WHEREAS**, the TOWN is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

**WHEREAS**, the TOWN is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

**WHEREAS**, the Town desires that Gomez Barker to provide the consulting services as specified herein, in support of the Town's government relations and public affairs efforts at the state government level; and

**WHEREAS**, Gomez Barker has represented and warranted that it has special professional qualifications and the ability to provide the consulting services required by the Town, and is willing and able to provide same under the terms and conditions set forth in this Contract; and

**WHEREAS**, Gomez Barker was selected by the Town of Cutler Bay through the Competitive Consultant's Negotiation Act ("CCNA") to provide the same services as required by the Town, and the Town has determined that is in the best interest of the Town of Lake Park to "piggy-back" off the Cutler Bay contract award to Gomez Barker.

**WHEREAS**, the Town has budgeted funds in its current fiscal year budget which are available for the funding of this Contract;

**NOW THEREFORE**, the Town and Gomez Barker in consideration of the benefits flowing from each to the other do hereby agree as follows:

1. **CONTRACT TERM.**

1.1 The term of this Agreement shall be for a period of one (1) year, commencing on commencing on February 7, 2008 and terminating on February 6, 2009 unless terminated earlier pursuant to the provisions contained herein. The effective date ("Effective Date") of this Agreement shall be on the date the Agreement is executed by the Mayor of the Town after approval of the Agreement by the Town Commission. The Town shall have the option of renewing the Agreement at the expiration of the initial one-year term by giving Gomez Barker written intent to renew at least thirty days before the expiration of the initial term. The parties agree that time is of the essence in the performance of each any every obligation under this Agreement.

2. **CONSIDERATION AND INVOICING.**

2.1 For the performance of the services described in the attached **Schedule A** ("Scope of Work"), the Town shall pay Gomez Barker the compensation provided for in the attached **Schedule B** ("Compensation").

2.2 Reimbursable expenses. Gomez Barker shall be reimbursed for out-of-pocket expenses directly chargeable to the services provided to the Town under this Agreement, at the actual cost incurred. Reimbursable expenses include, but are not limited to: the actual cost of the preparing materials for distribution, printing, deliveries, federal express services, postage. Gomez Barker shall not charge for facsimile transmittal, travel

time, or telephone calls. These expenses shall conform to rates and allowances set forth in Section 112.061, Florida Statutes with regard to per diem and traveling expenses. Identifiable communication expenses, reproduction costs, sub-consultant fees, overnight deliveries and special accounting expenses not applicable to general overhead shall be reimbursed at actual cost. Prior to expending these expenses, Gomez Barker shall provide notice that an expense may be incurred.

2.3 Pursuant to Section 287.055(5)(a), Florida Statutes, execution of this Agreement by Gomez Barker shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the consideration are accurate, complete, and current at the time of contracting. Gomez Barker agrees that the Town may adjust the consideration for this Agreement to exclude any significant sums by which the consideration was increased due to inaccurate, incomplete, or non-current wage rates and other actual unit costs. The Town shall make any such adjustment within one (1) year following the termination of this Agreement.

2.4 Gomez Barker's invoices shall be sent to the following address:

Town of Lake Park  
Town Manager  
545 Park Avenue  
Lake Park, FL 33403

2.5 Gomez Barker shall bill the Town on a monthly basis. The Town shall pay the full amount of the invoice within thirty (30) days of receipt and acceptance of the work by the Town, and provided Gomez Barker has

performed the work according to the terms and conditions of this Agreement to the satisfaction of the Town.

3. **CONTRACT PERFORMANCE.**

3.1 Gomez Barker shall perform all required services with that standard of care, skill, and diligence normally provided by a professional organization in the performance of similar services. Gomez Barker agrees that any such information provided to it by the Town shall only be used for the performance of this Agreement, and shall not be divulged to a third-party.

4. **INDEPENDENT CONTRACTOR.**

- 4.1 Gomez Barker is an independent contractor and is not an employee or agent of the Town. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the Town and Gomez Barker, its employees, agents, subcontractors, or assigns, during or after the performance of this Agreement. Gomez Barker is free to provide similar services for others.
- 4.2 Gomez Barker shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this Agreement without the prior written consent of the Town. Any attempted assignment in violation of this provision shall be void.
- 4.3 Gomez Barker shall not pledge the Town's credit or make the Town a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

- 4.4 All acts to be performed by Gomez Barker in connection with this Agreement must be performed in strict conformity with all applicable laws and regulations of federal, state, and local jurisdictions.
- 4.5 Pursuant to Section 287.055(6), Florida Statutes, Gomez Barker warrants that it has not employed or retained any person, other than a bona fide employee working solely for Gomez Barker, to solicit or secure this Agreement. Further Gomez Barker warrants that it has not paid or agreed to pay any person, other than a bona fide employee working solely for Gomez Barker, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the awarding or making of this Agreement. For breach of this provision, the Town may terminate this Agreement without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.
- 4.6 Gomez Barker shall not be exempted from paying Florida Sales and Use taxes to the appropriate governmental agencies or for payment by Gomez Barker to fulfill its contractual obligations with the Town. Gomez Barker shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes resulting from this Agreement.
- 4.7 Gomez Barker, by its execution of this Agreement, acknowledges and attests that, neither it nor any of its affiliates who shall perform work which is intended to benefit the Town, have been convicted of any public entity crime pursuant to Section 287.133, Florida Statutes, or, if any such person, entity or affiliate was convicted of a public entity crime, a period

longer than thirty-six (36) months has passed since any such person, entity or affiliate was placed on a convicted vendor list. Gomez Barker further understands and acknowledges by its execution of this Agreement, that this Agreement shall be null and void, and/or that this Agreement is subject to immediate termination by the Town, for any misstatement or lack of compliance with the mandates of said statute. The Town, in the event of such termination, shall not incur any liability to the Gomez Barker for any services provided.

5. **INDEMNIFICATION AND INSURANCE.**

5.1 For One Hundred Dollars (\$100.00) consideration, the sufficiency of which is acknowledged, payable as part of and included in the first payment hereunder, Gomez Barker shall defend, indemnify, save, and hold the Town, including the Town Commission, and the Town's agents, elected and appointed officials, representatives, and employees, harmless from any and all claims or causes of action, including without limitation, all damages, losses, liabilities, expenses, costs, and attorney's fees related to such claims, resulting from any negligent or intentional act or omission, or the violation of any federal, state, or local law or regulation, by Gomez Barker, its subcontractors, agents, assigns, invitees, or employees in connection with this Agreement. Gomez Barker further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, agents, assigns, invitees and employees with the terms of this Agreement.

- 5.2 Gomez Barker shall maintain, or cause to be maintained, the following specified insurance coverages in the amounts set forth hereafter during the full period of the Agreement, which must include the following coverages and minimum limits of liability:
- a. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE for all employees of Gomez Barker for Statutory Limits in compliance with the applicable state and federal laws. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of Gomez Barker and all subcontractors.
  - b. COMPREHENSIVE GENERAL LIABILITY with the minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury Liability, Property Damage Liability, Premises and Operations, Independent contractors, Products and Completed Operations, Broad Form Property / Personal Injury, XCU coverage, and a contractual Liability Endorsement.
  - c. BUSINESS AUTO LIABILITY with minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury and Property Damage Liability. This shall be an "any-auto" policy including Owned, Hired, Non-Owned, and Employee Non-Ownership Coverage.
  - d. PROFESSIONAL LIABILITY (malpractice and professional negligence) coverage with minimum limits of \$1,000,000.00 for all agents and employees of Gomez Barker.

- 5.3 The Town shall be included as an Additional Named Insured under the General Liability and Automobile Liability policies. Current valid insurance policies meeting the requirements herein identified shall be maintained during the duration of Gomez Barker. There shall be a thirty (30) day notification to the Town, in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of Gomez Barker to ensure that any subcontractors are adequately insured or covered under their policies.
- 5.4 All Certificates of Insurance shall be kept on file with the Town, and approved by the Town prior to the commencement of any work under this Agreement. The Town may at its discretion, require Gomez Barker to provide a complete certified copy of the insurance policy(s).
- 5.5 The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.
- 5.6 All required insurance shall preclude any underwriter's rights of recovery or subrogation against the Town with the express intention of the parties being that the required coverages protect both parties as the primary insurance for any and all losses covered by the above described insurance.
- 5.7 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as they appear in any policy of insurance

in which the Town is named as an additional named insured shall not apply to Town.

5.8 Violation of the terms of this Paragraph and its sub-parts shall constitute a material breach of the Agreement by Gomez Barker and the Town, at its sole discretion, may cancel the Agreement, and all rights, title and interest of Gomez Barker shall thereupon cease and terminate.

6. **TERMINATION.**

6.1 Either party may terminate this Agreement without penalty by giving thirty (30) days notice of termination to the other party. In the event the Town terminates the agreement it shall pay Gomez Barker all fees earned up to the date of termination on a per diem basis at the rate of \$82.19 per day for any partial month. In the event of termination, Gomez Barker shall provide Town with a status report describing all actions taken by the firm in furtherance of the Town's legislative goals up through the date of termination and all files and other documents in Gomez Barker's possession relating to the Town or its legislative goals. The Town shall reimburse all reasonable costs incurred through the date of termination as provided in **Schedule B, Section 2**, upon submission of documentation justifying the necessity and reasonableness of any such expenses. The Town reserves the right to withhold payment of any expenses, which the Town, in its sole discretion, deems, are not adequately documented and/or are unreasonable and/or unnecessary and/or excessive.

6.2 The Town may terminate this Agreement at any time for convenience upon thirty (30) calendar days prior written notice to Gomez Barker. The

performance of work under this Agreement may be terminated by the Town in accordance with this clause in whole, or from time to time in part, whenever the Town shall determine that such termination is in the best interest of the Town. Any such termination shall be effected by delivery to Gomez Barker of a Notice of Termination. In the event of termination, the Town shall compensate Gomez Barker for all authorized and accepted work performed through the termination date. The Town shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under this Agreement. The Town may withhold all payments to Gomez Barker for such work until such time as the Town determines the exact amount due to Gomez Barker.

7. **RECORDS RETENTION/OWNERSHIP/AUDIT.**

- 7.1 Gomez Barker understands that all documents produced by Gomez Barker pursuant to this Agreement are public records and Gomez Barker must permit the inspection and copying of all public records and must maintain all public records pursuant to Chapter 119, Florida Statutes. Gomez Barker shall indemnify and hold the Town harmless from any demands, claims, actions or lawsuits of any kind regarding Gomez Barker's failure to comply with Chapter 119, F.S. related to public records. Gomez Barker shall permit the Town or its designated agent to inspect all records maintained by Gomez Barker, which are associated with this Agreement at the location where they are kept upon reasonable notice.
- 7.2 The Town has not performed a pre-audit of Gomez Barker's financial and/or accounting records to verify actual or average direct labor payroll

rates or verify the general overhead factor and Profit margin. However, Gomez Barker shall permit the Town, or its designated agent to inspect such records at the location where they are kept upon reasonable notice. Furthermore, the Town shall have the right to audit Gomez Barker's financial and accounting records, in accordance with generally accepted governmental auditing standards, within a period of one (1) year after completion of this Agreement. This audit may be performed by the Town or a designated agency.

8. **GENERAL PROVISIONS.**

- 8.1 Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. Failure to perform shall be excused during the continuance of such circumstances, but this Agreement shall otherwise remain in effect.
- 8.2 The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall be in the Nineteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims, which are justiciable in federal court.
- 8.3 In the event any provisions of this Agreement shall conflict, or appear to

conflict, the Agreement, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.

- 8.4 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this Agreement by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this Agreement. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this Agreement specifically referred to therein and shall be not deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 8.5 Should any term or provision of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- 8.6 This Agreement may be amended, extended, or renewed only with the written approval of the parties. This Agreement states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or

agreements previously existing between the parties with respect to the subject matter of this Agreement. Gomez Barker recognizes that any representations, statements or negotiations made by Town staff do not suffice to legally bind the Town in a contractual relationship unless they have been reduced to writing and signed by an authorized Town representative. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

8.7 If either party initiates legal action, including appeals, to enforce this Agreement, the prevailing party shall be entitled to recover a reasonable attorney's fee.

**IN WITNESS WHEREOF**, the parties or their duly authorized representatives hereby execute this Agreement on the date first written above.

ATTEST:

Vivian Mendez  
Vivian Mendez, Town Clerk



TOWN OF LAKE PARK, FL

By: Paul Castro  
for Paul Castro, Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: Thomas J. Baird  
Thomas J. Baird, Town Attorney

GOMEZ BARKER ASSOCIATES, INC.

BY: Fausto B. Gomez  
Printed Name: FAUSTO B. GOMEZ

Title: PRESIDENT

## SCHEDULE A

This sets forth the objectives to be reached by this effort and the planned work content in accordance with the term and provisions of this Agreement. Gomez Barker believes that effective lobbying is based on a series of interrelated elements and these constitute its approach. In order to secure the state policy objectives of Lake Park, Gomez Barker will undertake the tasks outlines below:

1. **Intelligence and Communication** – Fundamental to the ability to impact state policy is a basic comprehension of the law and administrative rules and the ability to learn of the existence and content of proposals to modify them. By knowing how government works, and having access to information and the competency to evaluate it, Gomez Barker is able to identify opportunities or anticipate problems and thus gauge their impact on the interests of Lake Park.

The staff of Gomez Barker regularly reviews interim legislative reports and meet with legislators, legislative staff, and agency personnel in order to determine what issues are on the agenda, which are being informally discussed, and which have the potential to become state policy. This is in order to develop an appreciation of the opportunities for securing favorable changes to law or resources and is crucial or helping understand the policy and budgetary context in which decisions are likely. Information is a key element in formulating a successful legislative strategy. Prior to the beginning of the legislative calendar,

Gomez Barker would “trial balloon” Lake Park’s legislative plan in order to learn how decision makers would view and receive it and what modifications, if any, may need to be made.

2. **Preparation** – The legislative requirements of Lake Park should be reflective of its public policy goals and the information obtained by Gomez Barker through the process described above. In order for it to be viable, the program must have concise and defined goals and every item must be specific, measurable, achievable, and reasonable. Gomez Barker will prepare a legislative program, including substantive changes to law and budget requests, draft legislation and presentation materials, and develop a legislative strategy and a focused political message.

3. **Presentation** – Gomez Barker will present the legislative program of Lake Park to the appropriate committees in both the House and Senate as well as meet individually with key legislators. The firm will testify and articulate the Town’s interests during the drafting and deliberation process and monitor legislative sessions and committee meetings. Monitoring occurs through day-to-day participation in legislative sessions, pertinent committee meetings, and discussions with individual legislators and staff, and through a subscription to a legislative data service that provides the most comprehensive monitoring capability currently available.

4. **Involvement and Coordination** – Lake Park officials will be encouraged to communicate with policy-makers and to visit Tallahassee during the legislative session. These communications and meetings will be planned and coordinated

by Gomez Barker who will schedule meetings, review materials and correspondence, and brief the participants prior to any meetings.

5. **Collateral Support** – Gomez Barker will identify other organizations that share common legislative goals and, as appropriate, coordinate lobbying strategy with them. This is intended to broaden the reach and legislative base of support for Lake Park. These will include the Palm Beach County League of cities, the Florida League of Cities, and the Florida Association of Counties. Gomez Barker will also review the legislative goals of other entities and, when necessary, work to stop any legislation or initiative that may have a negative impact on Lake Park's interests.
6. **Lobbying and Monitoring** – Gomez Barker will provide year-round, full-time, lobbying and representation at both the legislative and executive agency level. It maintains fully staffed offices in Miami and Tallahassee from which lobbying, review of agency action, monitoring and follow-up occurs.
7. **Reporting** – Focused and accurate communication with Lake Park about the status of legislation, budget requests, or any other important issues will be through written progress reports, meetings, and/or telephone contact.
8. **Public Affairs** – Gomez Barker will promote Lake Park's agenda to legislators, legislative staff, and executive officials so that a full understanding of the Town will facilitate legislative requests.

## SCHEDULE B

This sets forth the compensation payable by Lake Park to Gomez Barker in accordance with the terms set forth in the Agreement.

1. Total professional compensation is \$30,000 per annum. This shall be paid on the basis of a monthly retainer of \$2,500 per month, the first payment due on \_\_\_\_\_, 2008 and continuing on the 1<sup>st</sup> day of each month until the conclusion of this Agreement.
2. Lake Park agrees to reimburse Gomez Barker for any reasonable and appropriate expense, extraordinary in nature and incurred with the prior approval of the Town in the course of performing the services specified in this document. Gomez Barker will provide any and all documentation in connection with any reimbursable expenses incurred, not to exceed \$1,500 during the course of any annual period.