



**CITY OF FORT LAUDERDALE**  
**City Commission Agenda Memo**  
**REGULAR MEETING**

**#18-0435**

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**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Alain E. Boileau, Interim City Attorney

**DATE:** April 17, 2018

**TITLE:** Resolution authorizing and directing the City's intervention as a plaintiff in a lawsuit filed in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, at Case No. 2018 CA 0000699, seeking a declaration that the provisions punishing elected officials set forth in section 790.33, Florida Statutes, for violating the preemption related to the regulation of firearms and ammunition are invalid, appointing Weiss Serota Helfman Cole & Bierman, P.L., as special counsel for the City, prescribing a flat fee compensation, and authorizing execution of a retainer agreement.

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**Recommendation**

The City Commission has the option to adopt a resolution authorizing and directing the City's intervention as a plaintiff in a lawsuit filed in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, at Case No. 2018 CA 0000699, appointing Weiss Serota Helfman Cole & Bierman, P.L., as special counsel for the City, prescribing a flat fee compensation of \$10,000.00 to be paid for such legal services. If the City Commission is inclined to adopt this resolution and join the litigation, it is recommended that the Interim City Attorney be authorized to execute a retainer agreement containing terms acceptable to the Interim City Attorney.

**Background**

Section 4.10 of the Charter of the City of Fort Lauderdale, Florida, provides, in part, that "[t]he city commission may, by resolution, authorize one (1) or more special counsel to be retained for the purpose of performing such legal duties as may be prescribed by said resolution. Each such resolution shall further prescribe the compensation to be paid the special counsel."

Over the past several years there have been an unprecedented number of mass shootings in American communities including, most recently, at Marjory Stoneman Douglas High School in Parkland, Florida.

In Section 790.33, Florida Statutes, the State of Florida (a) declared that it is occupying the whole field of regulation of firearms and ammunition, to the exclusion of all existing and future county or city ordinances, regulations, or rules, (b) prohibits the enactment of

any future ordinances or regulations “relating to firearms,” and (c) also creates potential liability for damages for actions other than ordinances and regulations, including any “measure, directive, rule, enactment, order, or policy promulgated or caused to be enforced”.

On April 2, 2018, the City of Weston, joined by ten municipalities and thirty-one elected officials as plaintiffs, filed a lawsuit in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, Case No. 2018 CA 0000699 (the “Lawsuit”) seeking a declaration that the provisions punishing elected officials set forth in Section 790.33, Florida Statutes, for violating the preemption related to the regulation of firearms and ammunition, as well as related provisions, are invalid, and invited other local governments to join the lawsuit.

### **Resource Impact**

Funds for this agreement in the amount of \$10,000.00 are available in the FY 2018 Budget in the account listed below:

<i>Funds available as of April 12, 2018</i>					
ACCOUNT NUMBER	INDEX NAME (Program)	CHARACTER CODE/ SUB-OBJECT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)	PURCHASE AMOUNT
001-ATT010101- 3119	Social/ Cultural	Services/Material/ Legal Services	\$717,156	\$273,245	\$10,000
			<b>PURCHASE TOTAL ►</b>	\$10,000	

### **Attachment**

Exhibit 1 – Resolution

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Prepared by: Alain E. Boileau, Interim City Attorney

Charter Officer: Alain E. Boileau, Interim City Attorney