



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING MARCH 10, 2020

**5:00 PM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Upon being recognized, a member of the public shall proceed to the podium and give his or her name and address and may, thereafter, speak for a maximum of three minutes on any matter relevant to a specific agenda item. During "Audience Comments," a member of the public may speak on any matter relevant to City business which is not on the agenda, for a maximum of three minutes in accordance with Section 2-1.1(d) and 2-2 of the City Code. In accordance with Section 2-2, during periods set aside for public discussion any person desiring to speak shall secure a form located at the agenda table, complete the form and present it to the City Clerk so the speaker can be recognized by the presiding officer. The use of profanity, obscene language, threats or any violent or abusive conduct by any person shall constitute a violation of this section. It shall be the duty of the Director of Public Safety, upon the order of the presiding officer at any such meeting, to forcibly, if necessary, evict any person violating the provisions of this section from the Council Meeting Hall. Any such violation shall subject the offender, upon conviction thereof, to a fine and/or imprisonment as prescribed by Section 1-8.

1. CALL TO ORDER BY MAYOR

2. NEW BUSINESS:

A. Discussion on RFP for City Attorney Services

3. ADJOURNMENT:

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC

AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-76325364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 72121 or 1800295528771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.



**CITY COUNCIL AGENDA MEMORANDUM
MARCH 10, 2020 AGENDA**

TO: Honorable Mayor and Members of the City Council
FROM:
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Discussion on RFP for City Attorney Services

SYNOPSIS:

This item was originally on the February 25th City Council Agenda. It was continued until the March 10th agenda due to not having the full council present for discussion. Vice Mayor Bryan requested a workshop be held for the discussion.

FISCAL IMPACT STATEMENT:

BACKGROUND:

At the meeting of Feb. 11th, CMBR Politis requested this item be added to the next agenda for discussion. The City has utilized the firm of Stenstrom, McIntosh, Colbert & Whigham for the past twenty years. The Council felt it was time to review other firms. Staff has put together a draft RFP for council to consider.

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

No motion is required for discussion.

ATTACHMENT: 1. RFP for City Attorney February 2020

2. cocoa legal contract
3. palm coast legal contract

**CITY OF DAYTONA BEACH SHORES
REQUEST FOR PROPOSAL
FOR
CITY ATTORNEY SERVICES**



**City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
www.dbshores.org**

RFP FOR CITY ATTORNEY SERVICES

General Description of Services

The City Council of the City of Daytona Beach Shores, Florida, is requesting proposals from experienced and well-qualified firms or individuals for the provision of City Attorney services. Services to be provided include, but are not limited to, the following:

General legal counsel to the City Council

Counsel and legal services to City boards, and when required to the City Council

Prepare and/or draft revisions to ordinances, contracts, financial, and other matters of the City

Address and advise City on land use, environmental and condemnation issues

Prepare diverse array of legal documents relating to real property, rights-of-way, utilities and other matters

Address and advise City on utility taxes and utility franchise agreements

Address and advise City on special assessments and special assessment collections and liens and coordinate financings with bond counsel.

Represent City in litigation

Attend regular and special meetings and workshop sessions of the City Council and other board meetings and workshop sessions as directed by the Mayor or City Manager.

Proposal documents are available, at no cost, in the City Clerk's Department, City Hall, 2990 S. Atlantic Avenue, Daytona Beach Shores, Florida, 32118 or on the City's website at www.cityofdb.org on the City Clerk's Department page. It is mandatory that you receive proposal documents from the City, prior to submitting a proposal.

Proposals are due, in one (1) original and ten (10) copy sets, in the City Clerk's Department, City Hall, 2990 S. Atlantic Avenue, Daytona Beach Shores, FL 32118, on _____ at 2:00 p.m. Late proposals will not be considered.

The City of Daytona Beach Shores reserves the right to accept or reject any or all proposals, with or without cause, to waive technicalities, or to accept the proposals which, in its judgment, best serves the interest of the City.

INTRODUCTION

The City of Daytona Beach Shores, Florida, is soliciting proposals from qualified attorneys to serve as City Attorney on behalf of the City of Daytona Beach Shores, its elected officials, department heads, and employees, in all areas of municipal law. Interested attorneys and law firms must submit proposals to the following location: City Clerk's Department, City Hall, 2990 S. Atlantic Avenue, Daytona Beach Shores, FL 32118.

Any proposals not complying strictly with the requirements of this Request for Proposal (RFP) may be ruled to be nonresponsive and ineligible for consideration.

All proposals are to be received at the above location **NO LATER THAN 2:00 p.m. on**

Any proposals received after that time will be ineligible for consideration.

BACKGROUND

A Introduction and Background.

The City Charter, Sec. 4.01, of the City of Daytona Beach Shores, Florida, provides as follows: "The city council shall appoint a city attorney who shall act as the legal adviser to, and attorney and counselor for the city and all of its elected and appointed officers, all departments and divisions of the city government, and all regulatory and advisory boards in all legal matters relating to their official duties. The city attorney shall prepare and/or review all contracts, bonds and other instruments in which the municipality is concerned, and shall endorse on each his or her approval of the form and correctness thereof."

A general description of the City, and form of government is attached hereto as Exhibit "A".

I. Engagement.

The firm or attorney selected must be experienced in representing cities, counties, special districts or other local governmental agencies in the State of Florida. The attorney should be familiar with all areas of municipal law with a strong background in land use/planning. The firm or attorney's engagement will be at will and may be terminated by the City Council at the City Council's discretion.

II. Costs of Replying to RFP.

The City shall not be liable for any costs incurred by proposers in replying to this Request for Proposal, or if interviewed, presentation costs or travel.

III. Services of City Attorney

The services to be provided by the selected attorney or firm include, but are not limited to, the following:

- A. Attend and provide advice as directed by the City Manager or City Council and attend and provide advice and counsel at City Council meetings, and other meetings of City boards including, but not limited to, Planning and Zoning Board and other advisory boards or committees to the City Council, as directed by the City Manager.
- B. Attend and provide advice and counsel at City staff meetings as directed by the City Manager.
- C. Prepare drafts or revision to ordinances and resolutions, including review and recommended revision(s) to existing resolutions and ordinances.
- D. Assist City staff in preparation of contracts including, but not limited to, construction projects, as well as other areas of municipal law.
- E. Address legal issues affecting financial matters of the City, including user fees, impact fees, franchise fees, and special assessments.
- F. Review Requests for Proposals, bid invitation documents, development review applications, agenda items, and other pertinent matters as directed.
- G. Address and advise City in community development issues including, but not limited to, land use law, Florida's Comprehensive Growth Management Act, zoning, code enforcement, areas swales, development agreements, development orders, developments of regional impact, and condemnation.
- H. Address and advise City in utility taxes and utility franchise agreements as they relate to Florida municipalities.
- I. Address and advise City on special assessments and special assessment collections and liens.
- J. Represent the City in litigation.
- K. Address and advise City in the additional following areas: Sunshine Law and public records law; home rule; exercise of police power; practice and procedures before local government land use issues, legislative, and quasi-judicial bodies; and all other areas of municipal law.
- L. The City Attorney shall be expected to make a reasonable effort to respond to requests from City Council or City staff within the time period required by the City.

Meeting and Workshop Attendance. The City Attorney shall personally, whenever directed, attend regular and special meetings and workshop sessions of the City Council and other workshop sessions normally scheduled as follows:

- 1) City Council Meetings Frequency: Second and Fourth Tuesday's each month at 6:00 p.m.
- 2) City Council special meetings and workshop sessions as scheduled from time to time, unless otherwise directed by City Council.
- 3) Planning and Zoning Board : Second Monday of each month at 8:30 a.m.
- 4) Other board and committee meetings as directed by the City Council or City Manager.

M. Provide orientation sessions for Council Members, Mayor, City staff, and other standing City Boards and Committees as required.

N. Provide itemized invoice for services rendered which shall include the following:

- 1) Date of service
- 2) Name of Attorney or paralegal providing the service
- 3) Description of the service
- 4) Breakdown of hours spent
- 5) Itemization of costs for approved reimbursable expense: (See Paragraph VI)
- 6) Public or private payment responsibility determination (if the City adopts such a fee structure)

O. Human resource issues including employment law will be part of this contract.

P. Bond Counsel will be handled by separately contracted as required.

Q. Other specialty legal services may from time to time be contracted separately with other firms as recommended by the City Attorney and approved by the City Council.

IV. INFORMATION TO BE FURNISHED IN PROPOSAL

Your proposal for City Attorney must respond to each of the following items (by tab) "A" through "K". Failure to provide requested information may result in your proposal being deemed nonresponsive and therefore eliminated from further consideration.

A. Name of law firm and primary attorney to serve as the City Attorney.

B. Date firm established.

C. Locations of all offices and dates established.

D. Name and biographical sketch of the attorney who will be assigned as City Attorney

for the City of Daytona Beach Shores. Also, the names and resumes of other attorneys who will assist and attend any of the City Council or other meetings, to include the following:

- 1) Whether a member in good standing of the Florida Bar, and if so, the date of admission;
 - 2) If a member in good standing of other bars, identify state and date of admission;
 - 3) The area of practice concentration relative to the area of service required by the City, including experience in municipal law;
 - 4) Please state as to each attorney whether such attorney is certified in city, county, and local government law by the Florida Bar; and
 - 5) Please state as to each attorney whether such attorney is rated by any national rating service and the rating of each attorney.
- E. Provide information as to each of the individual attorney's experience and the firm's experience in representing local governmental entities. That is, identify all current (and for the past five (5) years) municipal, county, or other governmental agencies for which your firm has provided legal counsel or advice and the relationship between the law firm and/or each individual attorney and the identified entity.
- F. Provide a summary of the technological abilities of the law firm in terms of the ability to communicate with the City by means of e-mail and telephonically during irregular hours as well as transmit documents to and from the City.
- G. Provide at least three (3) references of municipal or similar governmental entities the attorney or firm presently represents or has represented in the past three (3) years. For each reference provide:
- 1) Name of entity
 - 2) Contact person
 - 3) Address and telephone number for reference, and
 - 4) Dates of representation.
- H. Please describe what services of the City Attorney, as enumerated in Paragraph III of this RFP, are performed by you or your firm for other represented public entities.
- I. List all judgments or lawsuits against each attorney or your law firm in the last five (5) years, including the nature of the lawsuit and the resolution thereof.
- J. A statement of conflict of interest as required by Paragraph IX of this RFP.
- K. Fee proposal as required by Paragraph VI of this proposal.

V. RESPONSE DATE

To be considered, RFP's must arrive at the **City Clerk's Department, City of Daytona Beach Shores, 2990 S. Atlantic Avenue, Daytona Beach Shores, Florida, on _____ no later than 2:00 p.m.** Firms mailing proposals should allow sufficient mail delivery time to ensure timely receipt of their proposals.

VI. FEE PROPOSAL

The firm or attorney shall submit a proposal for compensation which should include, but is not limited to, an hourly rate option, a monthly retainer fee option, or a combination of these options. The hourly rate option is mandatory. The fee schedule shall include the following information:

- A. The hourly rates for the city attorney, assistant city attorneys, senior attorneys and every other attorney, paralegal or staff member anticipated to provide service to the City. The city attorney, assistant city attorneys and senior attorneys must be identified by name.
- B. The rates for reimbursable and/or out-of-pocket expenses including, but not limited to, word processing, photocopying, faxing, etc.
- C. The proposed rates for all other fee proposals or arrangements outside the standard hourly rates, if proposed by you or your law firm.

The City will reimburse for costs incurred during the course of representation, long distance charges, facsimile charges, photocopies, computer research, and approved travel in accordance with the City's Travel Policy. Or, alternatively, you may list all costs that you propose to be included in your compensation package, and all costs and their amounts that you propose to be paid by the City.

After the City Council has established the final ranking, negotiations with the first ranked attorney or law firm will be initiated. If those negotiations are unsuccessful, City Council will then open negotiations with the next ranked attorney or law firm.

Upon successful execution of a contract, the remaining firms will be notified that the process has been completed and that they were not selected. City Council reserves the right to reject any or all proposals, to further negotiate any proposals, to request clarification of information submitted in any proposal, to request additional information from any proposer, and to waive any irregularities in any proposal. Late proposals will not be accepted.

VII. NUMBER OF COPIES REQUIRED

One (1) original and ten (10) copies of the proposal should be submitted in a sealed package as noted in the cover letter for this Request for Proposal (RFP).

VIII. SELECTION

The initial evaluation and interview process will be conducted by the City Council.

A. The selection of a City Attorney will be made using the following process:

- 1) Staff will open the proposals on _____ at 2:00 p.m. The proposals will then be packaged for distribution to the Elected Officials, who will perform the initial ranking based upon the written documentation. Initial ranking will be turned in to the clerk's department by _____ at 5:00 p.m.
- 2) The clerk's department will make a composite ranking sheet and firms which have submitted proposals will be notified on _____ by 4:00 p.m. of their ranking.
- 3) The three top law firms will be required to make a **fifteen (15) minute presentation to City Council**. The City may also request a tour of the proposer's law firm or place of business. The City shall not be liable for any costs incurred by the proposer in connection with any interviews or presentations.
- 4) At a regular meeting on _____ the City Council will establish the final rankings.

B. After the City Council has established the final ranking, negotiations with the first ranked attorney or law firm will be initiated. If those negotiations are unsuccessful, the City Council will then open negotiations with the next ranked attorney or law firm. Upon successful execution of a contract, the remaining firms will be notified that the process has been completed and that they were not selected.

- C. The City Council reserves the right to reject any or all proposals, to further negotiate any proposals, to request clarification of information submitted in any proposal, to request additional information from any proposer, and to waive any irregularities in any proposal. Late proposals will not be accepted and will be returned unopened.

IX. CONFLICT OF INTEREST

Any prospective City Attorney and law firm must make an affirmative statement to the effect that, to its knowledge, the appointment as City Attorney will not result in a conflict of interest with respect to current or anticipated clients of the law firm. If a conflict is deemed to possibly exist, the prospective City Attorney or law firm shall state the nature of such conflict, and a proposal to resolve the same prior to appointment as City Attorney.

X. EVALUATION CRITERIA

Ranking will be based on submitted proposals, interviews, and on the following evaluation criteria with points assigned to all criteria.

A Experience of the law firm.

- 1) History of successful handling of similar matters. Qualifications and experienced of assigned attorneys in the areas of the services requested by the City.
- 2) Whether such attorney is certified in city, county, and local government law, the attorney's professional ratings and/or recognition in the legal community for professional achievement (e.g., Martindale-Hubbell ratings); recognition or extraordinary participation in Florida Bar, Federal Bar, American Bar Association, local bar associations or professional practices committees, or ratings by other nationally recognized systems.
- 3) Advanced training in city, county, and local government.
- 4) The attorney's or law firm's demonstrated experience in representation of cities, counties, special districts, and other governmental entities and the relationship between the attorney and law firm and the identified entity, including the matters set forth above and:
 - a. Past record of performance for the entities described in the above paragraph;
 - b. Experience in preparation and drafting of ordinances and advising governmental entities on revisions to ordinances, codes, or charter issues;
 - c. Attendance at governmental board meetings or City Council meetings;
 - d. Knowledge of public finance;
 - e. Knowledge and practice in the area of land use, zoning, real property, and

community development issues, including growth management and comprehensive plan amendments;

- f. Knowledge and practice in the area of public works issues, including utilities and utility franchise agreements
- g. Representation of entities in litigation;
- h. Experience or practice in advising entities on Florida Sunshine and public records law, and practice and procedures before local government, legislative, and quasi judicial bodies; and
- i. Location and availability to City staff.

B. Fee proposal. The City reserves the right to negotiate any fee proposal with the City Attorney or law firm selected.

C. Responses of reference, and responsiveness and clarity of proposal related to information requested.

XI. TIMETABLE

For this RFP the City is following the timetable listed below which is subject to change with or without notice.

RFP Schedule:

RFP available for pick up or download from City Web-Site.

RFP closing date; all proposals due by 2:00 p.m. in City Clerk's Department, Staff open proposals, and distributes to Elected Officials.

Elected Officials initial rankings are due by 5:00 p.m.

Staff prepares composite ranking sheet and notifies firms by 4:00 p.m.

Presentations to City Council beginning at 3:00 p.m.

One-on-one interviews with elected officials. Schedule TBD

City Council will establish the final rankings City Council appoints new City Attorney

Transition period completed between current and new City Attorney

XII. INSURANCE REQUIREMENTS

- A. The City Attorney shall procure and maintain, at its sole expense during the life of the engagement, insurance of the types and the minimum amounts stated below.

<u>Type</u>	<u>Amount</u>
Professional Liability/Errors & Omissions	\$5,000,000
Comprehensive General Liability	\$1,000,000
Comprehensive Automobile Liability	\$1,000,000

- B. Such insurance shall be written by a company or companies licensed to do business in the State of Florida and satisfactory to the City Council. Prior to commencing any work under the engagement letter, certificates evidencing the maintenance of said insurance shall be furnished to and approved by the City.
- C. The insurance shall provide that no material alteration or cancellation, including non-renewal, shall be effective until thirty (30) days after receipt of written notice by the City; provided, however, that for the professional liability insurance, in lieu of the foregoing requirement, the City in its sole discretion, may agree to accept notice of such material alteration or cancellation from the City Attorney.
- D. The insurance procured for the City Attorney shall name the City of Daytona Beach Shores as an additional insured on the comprehensive general liability.

XIII. LOBBYING

Proposers are hereby advised that lobbying will not be permitted with respect to this RFP.

Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to directly or indirectly influence the decision of a Council Member, Mayor or City personnel after the RFP release and prior to the Council's vote on the award of the Agreement.

Lobbying by any proposer or any individuals on behalf of a proposer during the time specified above will result in rejection/disqualification of said proposal.

EXHIBIT A

FORM OF GOVERNMENT

There are several different organizational forms that local government can take including Council- Manager, Mayor-Council, Council and Town Meeting forms. The City of Daytona Beach Shores is a Council-Manager form of government.

The City of Daytona Beach Shores has a permanent population of approximately 4600.

In the Council-Manager form of government, the Council is the governing body of the City elected by the public, and the Manager is hired by City Council to carry out the policies it establishes. Under the City of Daytona Beach Shores Charter, the Council consists of five (5) members including the Mayor, who are elected in a non-partisan election, by the people as defined in the City Charter.

Under the City of Daytona Beach Shores, a Council-Manager form of government, the Council provides legislative direction while the Manager is responsible for day-to-day administrative operations of the city based requests of the Council. The mayor and Council as a collegial body are responsible for setting policy, approving the budget, and determining the tax rate.

CITY OF COCOA BEACH

CONTRACT FOR LEGAL SERVICES

This Contract is made upon the signing of the parties by and between the City Commission of the City of Cocoa Beach, Florida, hereinafter referred to as the City, and authorized to do business in the State of Florida, and Vose Law Firm LLP authorized to do business in the State of Florida, hereinafter referred to as the Contractor or Firm, whose address is 324 West Morse Blvd., Winter Park FL., 32789, hereinafter referred to as the Contractor. In consideration of the mutual promises contained herein, the City and the Contractor agree that the Contractor will provide legal services for the City of Cocoa Beach as more specifically set forth in **Exhibit A, Scope of Work**, of this Contract, attached hereto and by reference, made part of the contract.

ARTICLE 1-TERM OF CONTRACT

This contract shall become effective upon the date of the last signature and shall continue for a period of five (5) years through June 30, 2022 unless either party chooses to exercise its rights under **Article 26, Termination**.

This Contract is renewable thereafter for additional two (2) year periods by mutual agreement unless either party shall advise the other party otherwise not less than ninety (90) days prior to contract expiration.

The initial term and the renewal term are subject to a formal annual performance review by the City Commission and the City Manager. Should the performance of the firm be found to be unsatisfactory the contract may be terminated by the City with notice.

This contract may be terminated by either party, with or without cause, upon ninety (90) days' notice. The conditions of **Article 26, Termination** apply.

ARTICLE 2 - CONTRACT ADMINISTRATION

Administration of this Contract shall be under the general direction of the City Manager of Cocoa Beach, or his/her designees, who shall act as the City's representative during the performance of this Contract. The Contract Administrator(s) for the Contractor are Gretchen R. H. Vose Esq. and Wade C. Vose Esq. who will serve as the City Attorney pursuant to this Contract.

Each party to this Contract agrees to provide written notification within fifteen (15) days, should the representative of either party change during the term of the Contract.

ARTICLE 3 - SCOPE OF WORK

The Contractor shall do, perform, deliver and carry out, in a professional manner, the type of projects, products, services as set forth in **Exhibit A, Scope of Services**, attached hereto, and, by reference, made part of the contract.

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

ARTICLE 4 - PAYMENTS TO CONTRACTOR

The City shall pay the Contractor for professional services in accordance with **Exhibit B, Fee Schedule**, attached hereto, and, by reference, made part of the contract

Invoices received from the Contractor pursuant to this Contract will be attested and approved by the City's Contract Administrator, indicating that the services being invoiced are in conformity with the Contract. The invoices will then be sent to the Finance Department for payment in accordance with established procedures.

Invoices not in accordance with the terms of the contract will be returned to the Contractor for correction.

The Contractor is required to enroll in the City's e-payables program or any other payment program of the City's choice.

Additional services shall be at the rates as set forth in **Exhibit B, Fee Schedule**.

ARTICLE 5 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the Contractor shall act as the execution of a truth-in-negotiation certificate certifying that the wage and rates and costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract.

ARTICLE 6 - AVAILABILITY OF FUNDS

The obligations of the City under this Contract are subject to the availability of funds lawfully appropriated for its purposes by the City Commission of Cocoa Beach.

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CITY OF COCOA BEACH

CONTRACT FOR LEGAL SERVICES

ARTICLE 7 – INSURANCE, PERMITS & LICENSES

In the performance of work and services under this Agreement, Contractor agrees to comply with all Federal, State and Local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement that are applicable to Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

Contractor shall maintain in full force and effect during the life of the Contract, Worker's Compensation insurance covering all employees in performance of work under the Contract. Contractor shall make this same requirement of any of its subcontractors. Contractor shall indemnify and save the City harmless for any damage resulting to them for failure of either Contractor or any subcontractor to take out or maintain such insurance.

The following are required types and minimum limits of insurance coverage that the Contractor agrees to maintain during the term of this Contract:

COVERAGE	MINIMUM LIMITS
General Liability	\$ 2,000,000/incident
Auto Liability	\$ 1,000,000 per person/incident
Professional Liability	\$ 1,000,000/incident
Worker's Compensation	Statutory

Statutory coverage for Worker's Compensation Insurance means covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees). The Contractor further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

Contractor will provide copies of his occupational license(s) to the Chief Financial Officer (CFO). Neither Contractor nor any subcontractor shall commence work under this Contract until they have obtained all insurance required under this section and have supplied the City's Contract Administrator with evidence of such coverage in the form of a Certificate of Insurance and endorsement.

All insurers shall be licensed to conduct business in the State of Florida. Insurers must have, at a minimum, a policy holders' rating of "A", and a financial class of "VII" as reported in the latest edition of Best's Insurance Reports, unless the City grants specific approval for an exception. All policies provided should be Occurrence, not Claims Made, forms except for the Professional Liability policy, which is Claims Made. The Contractor's insurance policies must be endorsed to add the City of Cocoa Beach as an Additional Insured. The Contractor shall be responsible for all deductibles. The Contractor must notify the City of any material changes in coverage. The Contractor must maintain the coverage limits described above.

CITY OF COCOA BEACH

CONTRACT FOR LEGAL SERVICES

ARTICLE 8 - INDEMNIFICATION

For other additional consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor hereby contracts and agrees to indemnify and save harmless and defend the City, its agents, servants and employees from and against any and all claims, liability, losses, and/or cause of action which may arise from any act or omission of the Contractor, its agents, servants, representatives, or employees in the performance of this Contract.

The Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Contractor not included in the paragraph above and for which the City, its agents, servants or employees are alleged to be liable.

Pursuant to and to the extent authorized by Section 111.07 and 111.071, Florida Statutes (1997), the City shall defend the action of the Contractor as City Attorney.

ARTICLE 9 - SAFETY

Intentionally omitted

ARTICLE 10 - NONDISCRIMINATION

The Contractor warrants and represents that it complies with all Federal and State requirements concerning fair employment and will not discriminate by reason of race, color, religion, sex, age, national origin, or physical handicap.

ARTICLE 11 - DRUG FREE WORKPLACE

In accordance with Florida Statutes, §287.087, the Contractor warrants that it is a drug free workplace.

ARTICLE 12 - PUBLIC ENTITY CRIME INFORMATION STATEMENT

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 (\$15,000.00), for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

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CITY OF COCOA BEACH

CONTRACT FOR LEGAL SERVICES

ARTICLE 13 - EXCUSABLE DELAYS

The Contractor shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the Contractor's control and without its fault or negligence. Such causes may include, but are not limited to: Acts of God; the City's omissive and commissive failures; natural or public health emergencies; labor disputes; freight embargoes; and severe weather conditions. If failure to perform is caused by the failure of the Contractor's subcontractor(s) to perform or make progress, and if such failure arises out of causes reasonably beyond the control of the Contractor and its subcontractor(s) and is without fault or negligence of either of them, the Contractor shall not be deemed to be in default.

ARTICLE 14 - ARREARS

The Contractor shall not pledge the City's credit or make it guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The Contractor further warrants and represents that it has no obligation for indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 15 - WARRANTY

The Contractor warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field and that all licensing and professional certifications required are maintained during the term of the Contract. The Contractor shall represent no private individual or legal entity before the City in any proceeding matter.

ARTICLE 16- ASSIGNMENT

This Contract may not be assigned without the prior written consent of the City. Any attempt to assign this Contract without prior written consent of the City shall render the Contract null and void with respect to the attempted assignee. The City shall not unreasonably withhold consent provided that the Contractor provides City with information it requires including, but not limited to, a sample contract from the proposed assignee, proposed fee schedule, operating history of the assignee and a contact person representing the assignee. This information shall be provided at least sixty (60) days prior to the target date for assignment by the Contractor.

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CITY OF COCOA BEACH

CONTRACT FOR LEGAL SERVICES

ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The Contractor shall deliver to the City for approval and acceptance, and before eligibility for final payment of any amounts due, all documents and materials prepared by and for the City under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the City or at its expense will be kept confidential by the Contractor and will not be disclosed to any other party, directly or indirectly, without the City's prior written consent unless required by a lawful order. All drawings, maps, sketches, and other data developed, or purchased, under this Contract or at the City's expense shall be and remains its property and may be reproduced and reused at the discretion of the City.

All original notes, designs, drawings, maps, reports, technical papers, and/or other items or data developed by the Contractor in performing under this Contract, along with all copies thereof, shall be prepared exclusively for the City and upon delivery to the City by the Contractor whether at the completion of work, or at any other time, shall become the exclusive property of the City.

No reports, data, programs or other materials produced in whole or in part under this agreement shall be subject to copyright by the Contractor in the United States or in any other country. The City or its assigns shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, for the specific purposes intended, any reports, data, programs or other material prepared under this agreement. All final writings, maps, charts, reports, computer programs, base maps, aerial photography and any other documentation prepared under this agreement, if any, shall become the property of the City after final payment.

ARTICLE 18- INDEPENDENT CONTRACTOR

The Contractor agrees that it is an Independent Contractor with respect to the services provided pursuant to this Contract, and not an employee, agent, or servant of the City. All persons engaged in any of the work or services performed shall at all times, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work; the City's interest is in the results obtained. Nothing in this agreement shall be considered to create the relationship of employer and employee between the parties.

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CITY OF COCOA BEACH

CONTRACT FOR LEGAL SERVICES

ARTICLE 19 - SUBCONTRACTORS

No part of this Contract shall be sublet without the prior express written approval of the City. If the Contractor shall sublet any portion of this Contract, the Contractor shall be as fully responsible to the City for acts and omissions of a subcontractor, and of persons either directly or indirectly employed by the subcontractor, as the Contractor is for its own acts and omissions and the acts and omissions of persons employed directly or indirectly by the Contractor. The subcontractor is subject to the same contractual provisions as is the Contractor under this Contract, including but not limited to insurance requirements, records maintenance and audit requirements.

Any attorney of the firm with whom the Contractor is affiliated may provide legal representation under this Contract to the City, its officers, and employees. The Contractor may refer work under this Contract to attorneys in the Contractor's law firm and other law firms when, in the judgment of the Contractor, such referral will serve the best interest of the City and with the City Manager's approval.

The Contractor may from time-to-time be directed by the City Commission or City Manager to purchase goods and services from third party contractors in relation to handling of legal matters. On such occasions when the costs are expected to exceed one thousand (\$ 1,000) dollars, the Contractor shall not proceed until documentation specifying the scope of work and estimated cost and it is confirmed that the procurement will comply with City purchasing procedures.

ARTICLE 20 - SEVERABILITY

No inspection by the City, nor any payment for or acceptance of the whole or part of the items in this Contract, nor any extension of time, nor any possession taken by the City of the product or services hereunder shall operate as a waiver of (1) any provision of this Contract, (2) the right to have it fully performed, (3) any power herein reserved to the City, or (4) any right to damages under this Contract. No waiver of any breach of this Contract shall be held to be a waiver of any other breach.

ARTICLE 21 - CONTINGENT FEES

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

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CITY OF COCOA BEACH

CONTRACT FOR LEGAL SERVICES

ARTICLE 22 - ACCESS AND AUDITS

The Contractor shall maintain records on City matters to substantiate all invoiced amounts. Said records will be available to the City during the Contractor's normal business hours for a period of one (1) year after the Contractor's final invoice for examination to the extent required to verify the direct costs (excluding established or standard allowances and taxes) incurred herein. Should such an audit by the City reveal monies owed to the City, the Contractor shall reimburse the City for the principal overcharge amount owed the City plus interest accrued at the prime interest rate published in the Wall Street Journal on the date of such discovery. Said interest rate shall apply to the principal overcharge amount revealed in the audit for the period from the original payment due date(s) to the payment by the Contractor of all monies owed. In the event the audit reveals monies owed the City in excess of five (5) percent of the average annual fee paid, the Contractor shall also reimburse the City for the cost of the audit.

ARTICLE 23 - ENTIRETY OF CONTRACTUAL AGREEMENT

The City and the Contractor agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein.

ARTICLE 24 - AMENDMENTS AND MODIFICATIONS

Any cardinal change in the terms and conditions set forth in this Contract must be mutually agreed to by both the City and the Contractor, and may be implemented only after this agreement has been amended in writing.

ARTICLE 25 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the City, shall be mailed to:

Original : James P. McKnight
City Manager
City of Cocoa Beach
P.O. Box 322430
Cocoa Beach, FL 32932-2430
james.mcknight@cityofcocoabeach.com

Copy : Loredana Kalaghchy
City Clerk
City of Cocoa Beach
P.O. Box 322430
Cocoa Beach, FL 32932-2430
lkalaghchy@cityofcocoabeach.com

Notices sent to the Contractor shall be mailed to:

Original : Wade C. Vose, Esq.
Vose Law firm LLP
324 West Morse Blvd.
Winter Park FL 32789
wvose@voselaw.com

Copy : Gretchen R. H. Vose Esq.
Vose Law firm LLP
324 West Morse Blvd.
Winter Park FL 32789
bvose@voselaw.com

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

ARTICLE 26 - TERMINATION

This Contract may be terminated without cause by the Contractor or City upon ninety (90) days prior written notice by either party to the other. Unless the Contractor is in breach of this Contract, the Contractor shall be paid for services rendered to the City's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the City, the Contractor shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work and other material related to the terminated work to the City, or approved designee.
- D. Continue and complete all parts of the work that have not been terminated.
- E. The Contractor shall be paid for services actually rendered to the date of the termination.

ARTICLE 27 - EXCLUSIVITY

This is not an exclusive Contract. The City may, at its sole discretion, contract with other entities for work similar to that to be performed by the Contractor hereunder.

ARTICLE 28 - REMEDIES

This Agreement shall be governed by and construed according to the laws of the State of Florida, and the rights of the parties hereto shall be construed and be subject to the laws of the State of Florida. The parties hereby waive the right to a trial by jury in any action, proceeding or counterclaim brought or filed by either of them against the other. Venue for any court action arising out of this agreement shall be in Brevard County, Florida.

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

ARTICLE 29 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 30 - UNAUTHORIZED ALIEN WORKERS:

The City of Cocoa Beach will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act ("INA"). The CITY shall consider the employment by the contractor of unauthorized aliens a violation of Section 274A (e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A (e) of the INA shall be grounds for unilateral cancellation of this Agreement by the City.

ARTICLE 31 – USE OF E - VERIFY:

Intentionally omitted

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

ARTICLE 32 – PUBLIC RECORDS

Pursuant to Florida Statutes, Section 119.0701, Contractor agrees to:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided under City's procedures or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the City.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**City Hall - First Floor
2 S. Orlando Ave.
P.O. Box 322430
Cocoa Beach, FL 32932-2430.
321-868-3286,
CITYCLERK@CITYOFCOCOABEACH.COM,**

SIGNATURE PAGE FOLLOWS

**CITY OF COCOA BEACH
CONTRACT FOR LEGAL SERVICES**

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first above written:

CITY OF COCOA BEACH

Attest:

Signature:

By:

By:

Loredana Kalaghchy, CMC
City Clerk
City of Cocoa Beach

Ben Malik
Mayor
City of Cocoa Beach

Date:

Date:

Witness :

Contractor Signature:

By:

By:
Vose Law firm LLP

Gretchen R. H. Vose Esq.
Vose Law firm LLP
324 Morse Blvd.
Winter Park FL 32789

Date:

Date:

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

EXHIBIT A SCOPE OF SERVICES

This Contract is for professional legal services; by the terms of this Contract the City appoints Gretchen R. H. Vose Esq. and Wade C. Vose Esq. as City Attorney(s). The duties of the City Attorney are governed by Section 4.04 of the City Charter, as amended from time to time, and the services specified herein.

CITY BOARDS

The City Attorney shall attend City Committee meetings or other meetings as requested by the City Commission or the City Manager when items under consideration warrant legal input. Their regular meeting schedules are as follows:

	<u>TIME</u>	<u>DAYS</u>
CRA Board	6:00 PM	First and Third Thursday
City Commission	7:00 PM	First and Third Thursday
Planning Board	5:30 PM	First Monday
Code Enforcement	9:00 AM	On call
Board of Adjustment	5:30 PM	Third Wednesday

NOTE:

Each Board has the ability to change meeting times and/or meeting days if the board deems it necessary. The above schedule is correct as of June 1, 2017.

The above Boards meet in City Hall. However, a Board may move its meeting place if circumstances warrant such a move.

Meetings scheduled near holidays may be cancelled. The number of cancelled meetings may vary by year.

The City Attorney shall represent the Commission and each of these Boards, provide appropriate legal advice and/or written opinions, as necessary, and provide parliamentary guidance concerning the conduct of each of the meetings of the Commission and Boards if requested.

If requested, the City Attorney will draft and/or review ordinances, charter amendments, resolutions, contracts, and correspondence; provide legal consultation on some City insurance matters; provide legal advice or written opinions to the City staff on matters related to their official duties and provide legal advice and/or facilitate meetings of the Charter Review Committee.

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

EXHIBIT A SCOPE OF SERVICES (Continued)

SERVICES OF OTHER ATTORNEYS

Other attorney services are allowed as follows:

- As specifically enumerated in RFP CB 17 -005 (Section V, paragraph 2). These matters are generally coordinated by the City Manager or designee. In addition, the City may retain or has retained outside counsel for the following:
 - Negotiation of union contracts & other labor matters
 - Bond/loan counsel
 - Counsel for Red Light Photo matters
 - Counsel on certain Confiscated Property Fund matters
 - The City's Pension Boards have their own attorneys
 - Other specialized matters as appropriate
- The Florida League of Cities Municipal Insurance Trust (FMIT) currently provides the City's automobile liability and general liability insurance coverage. Some legal matters will be handled by the FMIT staff. The City Attorney involvement will be coordinated by the City Manager or designee.

REPORTS

On a quarterly basis, the City Attorney will provide a brief written report on litigation and/or other significant matters/projects dealt with in the previous quarter. These reports are due by the 15th day subsequent to the end of a given quarter. These reports are intended for City Commission and City Manager use.

<u>Quarter</u>	<u>Report due Date</u>
October 1 – December 31	January 15
January 1 – March 31	April 15
April 1 -June 30	July 15
July 1-September 30	October 15

The City Manager or designee will provide direction regarding format etc. This contract will begin in the month of July 2017. The initial report would be for the July – September quarter and would be due on October 15, 2017.

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

EXHIBIT A SCOPE OF SERVICES (Continued)

LEGAL REPRESENTATION:

As required by the City Commission, the City Attorney shall prosecute and defend the City on all civil complaints, suits or controversies in which the City is a party, including the Board of Adjustment and Code Enforcement Board in legal proceedings. Specifically, the City Attorney is responsible for prosecuting and defending the City in civil action when no counsel is provided by liability insurance or when the City's exposure exceeds its insurance coverage or at the request of the Commission or City staff when otherwise required to protect the City's interests. The City Attorney may also represent an employee or elected official who is individually named in a suit as a result of the execution of official duties with the City. When the City's insurance coverage is activated on a given matter, the City Attorney shall cooperate as necessary with the legal counsel designated by the City's liability insurance carrier to ensure that the matter is dealt with in an expedient and professional manner.

As requested by the City Manager, the City Attorney will provide the City staff with assistance and legal counsel relating to the acquisition or sale of real property and in the review or preparation of deeds, easements and title searches.

The staff will make the decisions with regard to selection of appraisers, listing agents, closing agents or other services required.

As requested by City staff, Board Chairmen or City Commissioners, the City Attorney will review situations in which laws, regulations or rules can reasonably be construed to impact the City's interests.

The City Attorney will perform other legal research and provide legal advice as requested by the City Commission, Board members or City staff. All such requests must be coordinated through the Office of the City Manager

The City Attorney will be available to consult with City Commissioners, board members, and City staff by phone during normal working hours, and will make an effort to be available during non-working hours for time sensitive or emergency situations.

If requested by the City Manager, the City Attorney will promptly notify the City Manager of contacts with City staff or Board member in whatever method requested by the City Manager (i.e. e-mail, phone call, text, etc.), and the City Manager may direct that work requested by City staff or Board member not be done, at the discretion of the City Manager.

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**CITY OF COCOA BEACH
CONTRACT FOR LEGAL SERVICES**

**EXHIBIT A
SCOPE OF SERVICES
(Continued)**

LEGAL REPRESENTATION (CONTINUED):

The City Attorney is to maintain files per the City's Records Management Ordinance, and provide the City Manager or designee (as risk manager) and the City Clerk copies of all pertinent pleadings and orders in all litigation that the City Attorney is handling.

IN ADDITION, CITY ATTORNEY SHALL:

Review of City contracts for legal sufficiency.

Review of various state grant and/or interlocal agreements requiring an attorney signature.

Review of Clean Water State Revolving Loan requiring an attorney signature.

Review of agreements obligating the City for external debt and requiring an attorney signature.

Letter of representation regarding the City's legal status required as a part of the City's annual financial audit.

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CITY OF COCOA BEACH CONTRACT FOR LEGAL SERVICES

EXHIBIT B FEE SCHEDULE

FEES AND COSTS ARE PAYABLE AS FOLLOWS:

LEGAL FEES

All legal services as described herein, including general legal services, special projects, and litigation, will be provided for a monthly all-inclusive retainer amount of twenty thousand six hundred (\$ 20,600) dollars, payable in arrears. Partial months shall be prorated on a daily basis. City Attorney shall provide a monthly log of all City of Cocoa Beach work with the monthly invoice.

If the epayables system or any other payment system required by the City results in a lower fee for the City Attorney invoices, the monthly fee above will be reduced accordingly.

City Attorney shall separately track fees and costs relating to any work that may be the basis for reimbursement of "fees for city costs" as referenced in Section 4-04 of the Cocoa Beach City Code. When reimbursed to the City, such fees and costs shall be retained by the City, and not paid to the City Attorney in addition to the lump sum monthly retainer amount. Such fees shall be reported to the City on a monthly basis by the City Attorney with a description of the work done, and the person/entity to be charged by the City.

The monthly retainer above and the annual fiscal year cap are all inclusive of both legal and non-legal support services of any and every kind whatever. Rates above are inclusive of all overhead.

All fees under this agreement are subject to an annual (i. e. annual fiscal year) cap of two hundred fifty (\$ 250,000) thousand dollars. Because this contract will be effective in July 2017, the cap for FY 2017 will be prorated accordingly.

All fees are fixed at the above rates for the initial five (5) year period of the contract. If the contract is renewed for an additional time period a "fee re-opener" is permitted.

COSTS

Out of pocket costs would be charged at cost, with no mark-up or multiplier. There would be no separately billed copying charges unless copies are made through a third party copying firm and preauthorized by the City Manager. There would be no charge for travel time or travel expenses, and no charge for Westlaw or Lexis fees. No "overhead factor" would be charged. There would be no charge for telephone calls, word processing, clerical or secretarial services. All reimbursable costs must be approved by the City Manager prior to their incurrence and billing.

**CITY OF COCOA BEACH
CONTRACT FOR LEGAL SERVICES**

**EXHIBIT B
FEE SCHEDULE
(Continued)**

SALES TAX

The City is exempted from payment of State of Florida sales and use tax and Federal excise tax. The Contractor, however, shall not be exempted from paying State of Florida sales and use taxes to the appropriate governmental agencies or for payment by the Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the City. The Contractor shall not use the City's exemption number in securing such materials. The Contractor shall be responsible for and liable for the payment of all its Social Security, Medicare and other taxes resulting from the Contract.

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**SECOND ADDENDUM
TO AGREEMENT FOR LEGAL SERVICES**

THIS SECOND ADDENDUM TO AGREEMENT FOR LEGAL SERVICES by and between the City of Palm Coast, a Florida Municipal Corporation ("City") and Garganese, Weiss & D'Agresta, P.A., a Florida Professional Association, ("City Attorney") is entered into this 6th day of ~~September~~, 2015.

November 18

Whereas, the City Attorney currently serves as the City's City Attorney in accordance with that certain Agreement for Legal Services, approved by the City Council on January 15, 2008, as amended by the First Addendum, dated July 21, 2009 ("Agreement"); and

Whereas, the City Attorney and the City desire to modify the terms and conditions of that Agreement as follows:

Section 1. Effective Date. This Second Addendum shall be effective for legal services commencing on October 1, 2015.

Section 2. Modification. Paragraph 3.0 (A)(1) of the Agreement is modified to read as follows:

City Attorney shall be compensated as follows:

a. Annual Retainer.

The City shall pay City Attorney an annual retainer equal to Three Hundred Ten Thousand Five Hundred Dollars (\$310,500.00). The retainer will include services provided by the attorneys and paralegals employed by the City Attorney. The retainer will be paid in twelve (12) equal monthly installments of Twenty-Five Thousand Eight Hundred Seventy-Five Dollars (\$25,875.00). Under the retainer, the City Attorney will provide unlimited non-litigation/non-adversarial related legal services including travel to and from the City of Palm Coast. However, the retainer shall exclude litigation and other adversarial proceedings, legal opinions related to bonds and other indebtedness transactions, significant real estate transactions conveying title of land to and from the City, special counsel work assigned to other attorneys for specialized matters such as pensions, worker's compensation claims, and bond offerings, and matters in which the City Attorney has a conflict of interest under the Florida Bar Rules, except, however, the retainer will include defending City liens in foreclosure litigation filed against the City. At the commencement date of each City fiscal year commencing on October 1, 2016, the annual retainer rate shall be increased for inflation based on the most current Consumer Price Index for the Southeast Region for the last 12 months ending in June.

The City Attorney will continue to provide an itemized monthly invoice for attorney and paralegal time billed under the retainer for information purposes only so the City and City Attorney can re-evaluate the appropriateness of the amount of the retainer from time-to-time.

b. Litigation Services and Non-Retainer Services

Legal services provided for litigation and adversarial proceedings shall be billed at an hourly rate of \$175.00 per hour for attorneys and \$ 90.00 per hour for paralegals. These matters include proceedings before state and federal courts, administrative law judges, hearing officers, arbitration, mediation, EEOC, or other dispute resolution proceedings. Automobile travel to and from any proceeding will be billed at a flat \$175.00. If the City Manager requests that the City Attorney handle a significant real estate transaction conveying title of land to and from the City, the City Manager and City Attorney will negotiate a reasonable flat fee to cover attorney and paralegal time to be expended on the transaction. At the commencement date of each City fiscal year commencing on October 1, 2016, the hourly rates stated above shall be increased for inflation based on the most current Consumer Price Index for the Southeast Region for the last 12 months ending in June.

c. Bond and Indebtedness Transactions.

Regarding legal services provided by the City Attorney with respect to the issuance of bonds or other indebtedness in which the City Attorney is required to issue a formal written legal opinion, City Attorney shall be compensated as part of the cost of issuance and in the same manner as special bond counsel. The fees will be discussed with the city manager and agreed upon prior to the rendering of services in this regard.

d. Out-of-Pocket Expenses.

City Attorney's actual out-of-pocket expenses incurred in performing legal services under Agreement, such as copying and approximated Westlaw charges, recording fees, exhibits, real estate title insurance and appraisal work, hotels, airfare, and other outside expert service fees, will continue to be invoiced as a pass through expense and paid separately by the City in accordance with the Agreement.

Section 3. Other Terms of Agreement Not Affected. All other terms of the Agreement which are not modified by this Second Addendum shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned parties have executed this Second Addendum on the date set forth above.

ATTEST

CITY OF PALM COAST, FLORIDA

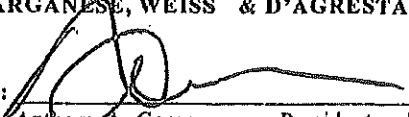
Virginia Smith
City Clerk

By: Jim Landon
Jim Landon, City Manager 11/6/15

DATE APPROVED BY CITY COUNCIL: October 20, 2015



GARGANESE, WEISS & D'AGRESTA, P.A.

By: 

Anthony A. Garganese, as President and Managing
Shareholder

**FIRST ADDENDUM
TO AGREEMENT FOR LEGAL SERVICES**

THIS FIRST ADDENDUM TO AGREEMENT FOR LEGAL SERVICES by and between the **City of Palm Coast, a Florida Municipal Corporation** ("City") and **Brown, Garganese, Weiss & D'Agresta, P.A., a Florida Professional Association**, ("City Attorney") is entered into this 21 day of July, 2009.

Whereas, the City Attorney currently serves as the City's City Attorney in accordance with that certain Agreement for Legal Services, approved by the city council on January 15, 2008 ("Agreement"); and

Whereas, the City Attorney and the City desire to modify the terms and conditions of that Agreement as follows:

Section 1. Effective Date. This First Addendum shall be effective for legal services commencing on August 1, 2009.

Section 2. Modification. Paragraph 3.0 (A)(1) of the Agreement is modified to read as follows:

City Attorney shall be compensated as follows:

a. Annual Retainer.

The City shall pay City Attorney an annual retainer equal to Two Hundred Seventy Thousand Dollars (\$270,000.00). The retainer will include services provided by the attorneys and paralegals employed by the City Attorney. The retainer will be paid in twelve (12) equal monthly installments of Twenty-Two Thousand Five Hundred Dollars (\$22,500.00). Under the retainer, the City Attorney will provide unlimited non-litigation/non-adversarial related legal services including travel to and from the City of Palm Coast. However, the retainer shall exclude litigation and other adversarial proceedings, legal opinions related to bonds and other indebtedness transactions, special counsel work assigned to other attorneys for specialized matters such as pensions, worker's compensation claims, and bond offerings, and matters in which the City Attorney has a conflict of interest under the Florida Bar Rules.

The City Attorney will continue to provide an itemized monthly invoice for attorney and paralegal time billed under the retainer for information purposes only so the City and City Attorney can re-evaluate the appropriateness of the amount of the retainer from time-to-time.

b. Litigation Services and Non-Retainer Services

Legal services provided for litigation and adversarial proceedings shall be billed at an hourly rate of \$150.00 per hour for attorneys and \$ 75.00 per hour for paralegals. These matters include proceedings before state and federal courts, administrative law judges, hearing officers,

arbitration, mediation, EEOC, or other dispute resolution proceedings. Automobile travel to and from any proceeding will be billed at a flat \$150.00.

c. Bond and Indebtedness Transactions.

Regarding legal services provided by the City Attorney with respect to the issuance of bonds or other indebtedness in which the City Attorney is required to issue a formal written legal opinion, City Attorney shall be compensated as part of the cost of issuance and in the same manner as special bond counsel. The fees will be discussed with the city manager and agreed upon prior to the rendering of services in this regard.

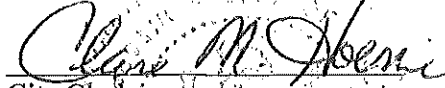
d. Out-of-Pocket Expenses.

City Attorney's actual out-of-pocket expenses incurred in performing legal services under Agreement, such as copying and approximated Westlaw charges, recording fees, exhibits, real estate title insurance and appraisal work, hotels, airfare, and other outside expert service fees, will continue to be invoiced as a pass through expense and paid separately by the City in accordance with the Agreement.

Section 3. Other Terms of Agreement Not Affected. All other terms of the Agreement which are not modified by this First Addendum shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned parties have executed this First Addendum on the date set forth below.

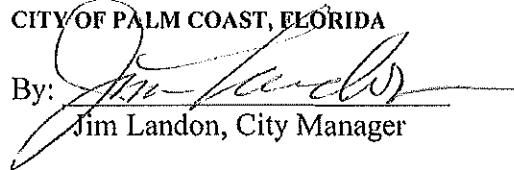
ATTEST


City Clerk

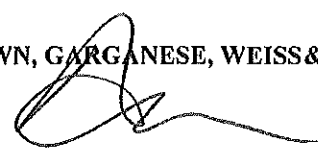
DATE APPROVED BY CITY COUNCIL:

7/21/09

CITY OF PALM COAST, FLORIDA

By: 
Jim Landon, City Manager

BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

By: 
Anthony A. Garganese, President and Managing Shareholder

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT FOR LEGAL SERVICES (hereinafter: "Agreement") is entered into between **BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.**, a Florida corporation, whose address is 225 East Robinson Street, Suite 660, Post Office Box 2873, Orlando, Florida 32802-2873 (hereinafter: the "Law Firm and **THE CITY OF PALM COAST**, a Florida municipal corporation, whose address is 2 Commerce Blvd., Palm Coast, Florida 32164 (Hereinafter the "City"). This Agreement shall bind the parties upon its execution by their representatives and shall become effective upon the date of the last signature.

RECITALS:

WHEREAS, the Law Firm desire to provide legal services to the City and the City desires to receive such services; and

WHEREAS, this Agreement is entered into in accordance with a competitive request for proposal process; and

WHEREAS, the parties mutually desire to finalize in writing this Agreement; and

WHEREAS, the City Council finds this Agreement is in the best interests of the public health, safety, and welfare of the City of Palm Coast.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

1.0 **ENGAGEMENT OF THE LAW FIRM.** The City hereby engages the Law Firm and the Law Firm agrees to perform the legal services set forth below. The Law Firm agrees to designate one attorney to serve as the designated individual City Attorney. The Law Firm hereby designated, and the City accepts, attorney William Reischmann to serve in the capacity of City Attorney under the City's Charter. Mr. Reischmann will be responsible for attending all City Council Meetings. In Mr. Reischmann's temporary absence due to scheduling conflicts, vacation, or sickness, Anthony A. Garganese of the Law Firm will be primarily responsible for attending City Council meetings while Mr. Reischmann is temporarily absent. The other attorneys of the Law Firm will also provide legal services to the City as the need arises and shall serve as assistant city attorneys. As mentioned below and for continuity purposes, the Law Firm will assign one attorney to primarily attend other board meetings that are required by the City. The Law Firm agrees that all services contracted for are to be performed solely by the Law Firm may not be subcontracted for or assigned unless provided in this Agreement.

2.0 **SCOPE OF SERVICES.**

A. The Law Firm agrees under the direction of the City Council and City Manager to perform certain professional legal services more particularly described as follows: 1) Prepare and file pleadings, motions, or briefs which may be required and represent the City in any and all litigation (including, but not limited to, actions brought by or against the City in a judicial or administrative forum and all appeals), except such actions as may be assigned to special counsel or be covered by an insurance policy naming the City as the insured or actions jointly defended with the City of Palm Coast; 2) Initiate and conduct discovery including depositions on behalf of the City and represent the City in discovery initiated by opposing parties; 3) Represent the City and attend City Council meetings (unless excused from attendance by the City Council or City Manager); 4) Draft/Review ordinances, resolutions, contracts, and correspondence relating to the transaction of City business and affairs; 5) Perform legal research and render legal advice; 6) Review and analyze City legal files, data, documents and other materials concerning the matters referenced in this paragraph and advise on recommended legal course of action; 7) Attend and participate in meetings, conference calls, field trips or similar functions and report on the status of the legal matters; 8) Act as an intermediary and legal advisor for the City when special counsel or insurance defense counsel is appointed to represent the City in any legal proceeding; 9) Assist in bond transactions and bids; 10) Prepare formal legal opinions; 11) Provide legal representation, as set forth above, to City boards as required by the City Council or City Manager and when requested to do so, the Law Firm will designate one attorney to be primarily responsible for attending a particular city board; 12) At the election of the City Council either prosecute cases before the City's Code Enforcement Board or represent said Board and defend on appeal Board decisions rendered in such prosecutions; 13) Complete real property transactions; 14) Prosecute code enforcement citations before a court of competent jurisdiction; and 15) Such other legal services required by the City Council or City Manager.

B. As the Law Firm deems appropriate and in specialized matters, the Law Firm may recommend to the City that special legal counsel be used for defined purposes. If recommended by the Law Firm, the City Manager may approve use of special counsel for an expenditure of legal fees payable to the special legal counsel not to exceed the City Manager's spending authority approved by the City Council. All other requests to utilize special counsel shall be subject to prior approval of the City Council.

C. The Law Firm and the attorneys therein shall be bound by the requirements of Section 112.313(2), (4), (5), (6), and (8), Florida Statutes (code of ethics). The Law Firm and the attorneys therein shall represent no

private individual or legal entity before the City in any proceeding or matter.

3.0 **CONSIDERATION.**

A. **Compensation - Fees and Expenses.**

1. The City shall be billed at the following rates:
 - a. \$150.00 per hour for attorneys
 - b. \$75.00 per hour for paralegals
 - c. With respect to formal written legal opinions required as part of the issuance of a bond or other indebtedness, the Law firm will be compensated as part of the cost of issuance and in the same manner as special bond counsel. The fees will be discussed with the city manager and agreed upon prior to the rendering of services required by the Law Firm for the issuance of the bond or other indebtedness.
 - d. Travel time to and from the City of Palm Coast will be billed at a flat rate of \$150.00 per trip.

Upon request by the Law Firm, the City's City Council may be asked to review and adjust this rate of compensation.

2. Routine expenses such as local phone calls, local travel expenses, routine copies, word processing, and clerical or secretarial services are overhead and will not be separately compensated.
3. Billing for services performed shall be on a monthly basis. Billable hours shall be measured in 6-minute increments. All bills shall denote what attorney conducted the work, a brief explanation of the type of work performed, the date on which the work was performed, the amount of time expended in performing the work, and for which City department the work was performed. Reimbursement of costs for items such as exhibits, title insurance commitment and policy, priority and overnight postage, computer research (e.g., Westlaw), environmental studies, appraisals, surveys, transcripts, document

reproduction for non-routine copies (e.g., filing of appellate briefs and records; bates stamping and indexing litigation discovery), and witness fees will be at cost to the Law Firm and will also be billed monthly. City will pay billing invoices within thirty (30) days after receipt.

B. **Travel.** In addition to the above compensation for fees and costs, justified and reasonable non-local travel expenses which are directly and exclusively related to the professional services rendered under this Agreement will be reimbursed in accordance with Section 112.061, Florida Statutes or as otherwise provided in City ordinances. Pursuant to Section 112.061, Florida Statutes, attorneys of the Law Firm are designated as authorized travelers during the life of this Agreement. For the purposes of computing travel expenses, the Law Firm's place of business shall be utilized for computation of all travel expenses. Travel between Orlando and Palm Coast shall be considered local travel and reimbursable under paragraph 3. A. 1. d. herein.

C. **Sales Tax.** The Law Firm shall not be exempted from paying Florida state sales and use taxes to the appropriate governmental agencies or for payment by the Law Firm to suppliers for taxes on materials used to fulfill its contractual obligations with the City. The Law Firm shall not use the City's exemption number in securing such materials. The Law Firm shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement for their respective employees.

D. **No Pledge of Credit.** The Law Firm shall not pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness.

4.0 **DOCUMENTATION.**

A. The Law Firm shall submit monthly written invoices. All invoices shall be submitted to the City Manager at the address listed above unless the City Manager directs otherwise.

B. The Law Firm shall maintain files, available for inspection by the City Manager, containing documentation of costs and fees incurred in connection with this Agreement. The files shall be maintained for a period of one year after the cost or fee is incurred by the Law Firm, unless otherwise notified in writing by the City specifying the document to be maintained.

5.0 **PUBLIC RECORDS.** As provided by Florida Statutes, anything, by whatsoever designation it may be known, that is produced by or developed in connection with this Agreement shall remain the exclusive property of

the City and may not be copyrighted, patented, or otherwise restricted as provided by Florida Statutes. Neither the Law Firm nor any other individual employed under this Agreement shall have any proprietary interest in any product(s) delivered under this Agreement. The reasonable cost of preparing and photocopying the documents for the City may be charged for said services.

6.0. TERMINATION OF AGREEMENT.

A. In the event this Agreement is terminated by either party for convenience or cause, all finished or unfinished documents, data, studies, correspondence, reports and other products prepared by or for the Law Firm under this Agreement shall be made available to and for the exclusive use of the City.

B. This is a continuing services agreement; however, the City Council may terminate this Agreement for any reason or for its convenience (without cause) by giving ten (10) days written notice to the Law Firm including the effective date of termination. The Law Firm may at any time terminate their interests in this Agreement for any reason or for convenience (without cause) by giving thirty (30) days written notice to the City, including the effective date of termination. Upon termination of this Agreement by either party, the Law shall honor the provisions of Rule 4-1.16, of the Code of Professional Conduct of the Florida Bar.

7.0 AMENDMENTS. Any party may, from time to time, request changes under this Agreement. Such changes, which are mutually agreed upon, shall be incorporated in written amendments to this Agreement.

8.0 AGREEMENT AS INCLUDING ENTIRE AGREEMENT. This instrument, including any attachments, embodies the entire agreement of the parties. There are no other provisions, terms, conditions, or obligations. This Agreement supersedes all previous oral or written communications, representations or agreements on this subject.

9.0 LIABILITY. The City shall defend the actions of the Law Firm in performing legal services on behalf of the City. As required by the City, the Law Firm shall maintain for their respective law firms, during the period of this Agreement, a professional liability insurance policy or policies professional liability coverage for the professional services to be rendered to the City under this Agreement.

10.0 ADMINISTRATION OF AGREEMENT.

A. The City contract administrator is the City Manager. The Law Firm's managing shareholder is the contract administrator for the Law Firm. All written and verbal approvals referenced in this Agreement (unless

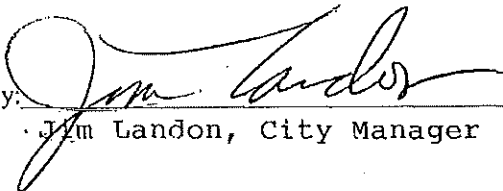
specified as being required to be obtained from the City Council) must be obtained from the parties' contract administrators or their designees. From time to time any party may notify the other, making a unilateral change in the person named by said party as the contract administrator for said party. This contract shall be governed by and construed under the laws of the State of Florida.

B. Any attorney employed by the Law Firm may provide legal representation under this Agreement to the City, its officers and employees. The Law Firm may refer work under this Agreement to attorneys in said law firms.

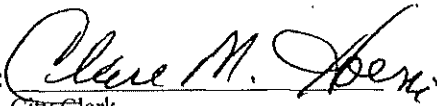
C. The City of Palm Coast, acting by and through its City Council as a collegial body, shall be considered Law Firm's client.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the date set forth below.

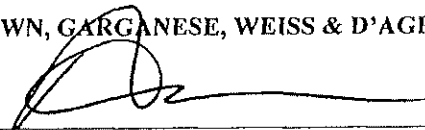
CITY OF PALM COAST, FLORIDA:

By: 
Jim Landon, City Manager

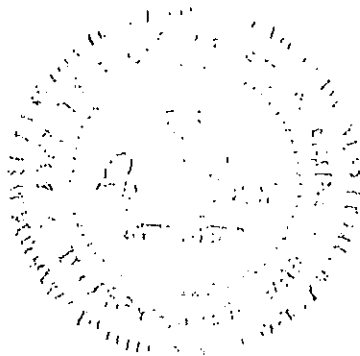
DATE APPROVED BY CITY COUNCIL: January 15, 2008

ATTEST: 
Clare M. Abernethy
City Clerk

BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

By: 
Anthony A. Garganese, President and Managing
Shareholder

Date: 1/15/08



**FIRST ADDENDUM
TO AGREEMENT FOR LEGAL SERVICES**

THIS FIRST ADDENDUM TO AGREEMENT FOR LEGAL SERVICES by and between the City of Palm Coast, a Florida Municipal Corporation ("City") and Brown, Garganese, Weiss & D'Agresta, P.A., a Florida Professional Association, ("City Attorney") is entered into this 21 day of July, 2009.

Whereas, the City Attorney currently serves as the City's City Attorney in accordance with that certain Agreement for Legal Services, approved by the city council on January 15, 2008 ("Agreement"); and

Whereas, the City Attorney and the City desire to modify the terms and conditions of that Agreement as follows:

Section 1. Effective Date. This First Addendum shall be effective for legal services commencing on August 1, 2009.

Section 2. Modification. Paragraph 3.0 (A)(1) of the Agreement is modified to read as follows:

City Attorney shall be compensated as follows:

a. Annual Retainer.

The City shall pay City Attorney an annual retainer equal to Two Hundred Seventy Thousand Dollars (\$270,000.00). The retainer will include services provided by the attorneys and paralegals employed by the City Attorney. The retainer will be paid in twelve (12) equal monthly installments of Twenty-Two Thousand Five Hundred Dollars (\$22,500.00). Under the retainer, the City Attorney will provide unlimited non-litigation/non-adversarial related legal services including travel to and from the City of Palm Coast. However, the retainer shall exclude litigation and other adversarial proceedings, legal opinions related to bonds and other indebtedness transactions, special counsel work assigned to other attorneys for specialized matters such as pensions, worker's compensation claims, and bond offerings, and matters in which the City Attorney has a conflict of interest under the Florida Bar Rules.

The City Attorney will continue to provide an itemized monthly invoice for attorney and paralegal time billed under the retainer for information purposes only so the City and City Attorney can re-evaluate the appropriateness of the amount of the retainer from time-to-time.

b. Litigation Services and Non-Retainer Services

Legal services provided for litigation and adversarial proceedings shall be billed at an hourly rate of \$150.00 per hour for attorneys and \$ 75.00 per hour for paralegals. These matters include proceedings before state and federal courts, administrative law judges, hearing officers,

arbitration, mediation, EEOC, or other dispute resolution proceedings. Automobile travel to and from any proceeding will be billed at a flat \$150.00.

c. Bond and Indebtedness Transactions.

Regarding legal services provided by the City Attorney with respect to the issuance of bonds or other indebtedness in which the City Attorney is required to issue a formal written legal opinion, City Attorney shall be compensated as part of the cost of issuance and in the same manner as special bond counsel. The fees will be discussed with the city manager and agreed upon prior to the rendering of services in this regard.

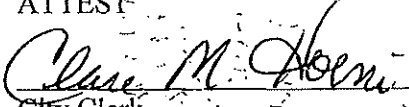
d. Out-of-Pocket Expenses.

City Attorney's actual out-of-pocket expenses incurred in performing legal services under Agreement, such as copying and approximated Westlaw charges, recording fees, exhibits, real estate title insurance and appraisal work, hotels, airfare, and other outside expert service fees, will continue to be invoiced as a pass through expense and paid separately by the City in accordance with the Agreement.

Section 3. Other Terms of Agreement Not Affected. All other terms of the Agreement which are not modified by this First Addendum shall remain in full force and effect.

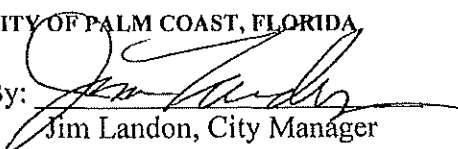
IN WITNESS WHEREOF, the undersigned parties have executed this First Addendum on the date set forth below.

ATTEST


City Clerk

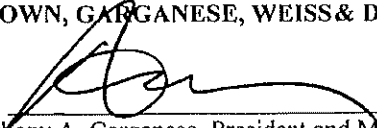
DATE APPROVED BY CITY COUNCIL: 7/21/09

CITY OF PALM COAST, FLORIDA

By: 

Jim Landon, City Manager

BROWN, GARGANESE, WEISS & D'AGRESTA, P.A.

By: 

Anthony A. Garganese, President and Managing Shareholder

**SECOND ADDENDUM
TO AGREEMENT FOR LEGAL SERVICES**

THIS SECOND ADDENDUM TO AGREEMENT FOR LEGAL SERVICES by and between the City of Palm Coast, a Florida Municipal Corporation ("City") and Garganese, Weiss & D'Agresta, P.A., a Florida Professional Association, ("City Attorney") is entered into this 6th day of ~~September~~ ^{November} 2015.

Whereas, the City Attorney currently serves as the City's City Attorney in accordance with that certain Agreement for Legal Services, approved by the City Council on January 15, 2008, as amended by the First Addendum, dated July 21, 2009 ("Agreement"); and

Whereas, the City Attorney and the City desire to modify the terms and conditions of that Agreement as follows:

Section 1. Effective Date. This Second Addendum shall be effective for legal services commencing on October 1, 2015.

Section 2. Modification. Paragraph 3.0 (A)(1) of the Agreement is modified to read as follows:

City Attorney shall be compensated as follows:

a. Annual Retainer.

The City shall pay City Attorney an annual retainer equal to Three Hundred Ten Thousand Five Hundred Dollars (\$310,500.00). The retainer will include services provided by the attorneys and paralegals employed by the City Attorney. The retainer will be paid in twelve (12) equal monthly installments of Twenty-Five Thousand Eight Hundred Seventy-Five Dollars (\$25,875.00). Under the retainer, the City Attorney will provide unlimited non-litigation/non-adversarial related legal services including travel to and from the City of Palm Coast. However, the retainer shall exclude litigation and other adversarial proceedings, legal opinions related to bonds and other indebtedness transactions, significant real estate transactions conveying title of land to and from the City, special counsel work assigned to other attorneys for specialized matters such as pensions, worker's compensation claims, and bond offerings, and matters in which the City Attorney has a conflict of interest under the Florida Bar Rules, except, however, the retainer will include defending City liens in foreclosure litigation filed against the City. At the commencement date of each City fiscal year commencing on October 1, 2016, the annual retainer rate shall be increased for inflation based on the most current Consumer Price Index for the Southeast Region for the last 12 months ending in June.

The City Attorney will continue to provide an itemized monthly invoice for attorney and paralegal time billed under the retainer for information purposes only so the City and City Attorney can re-evaluate the appropriateness of the amount of the retainer from time-to-time.

b. Litigation Services and Non-Retainer Services

Legal services provided for litigation and adversarial proceedings shall be billed at an hourly rate of \$175.00 per hour for attorneys and \$ 90.00 per hour for paralegals. These matters include proceedings before state and federal courts, administrative law judges, hearing officers, arbitration, mediation, EEOC, or other dispute resolution proceedings. Automobile travel to and from any proceeding will be billed at a flat \$175.00. If the City Manager requests that the City Attorney handle a significant real estate transaction conveying title of land to and from the City, the City Manager and City Attorney will negotiate a reasonable flat fee to cover attorney and paralegal time to be expended on the transaction. At the commencement date of each City fiscal year commencing on October 1, 2016, the hourly rates stated above shall be increased for inflation based on the most current Consumer Price Index for the Southeast Region for the last 12 months ending in June.

c. Bond and Indebtedness Transactions.

Regarding legal services provided by the City Attorney with respect to the issuance of bonds or other indebtedness in which the City Attorney is required to issue a formal written legal opinion, City Attorney shall be compensated as part of the cost of issuance and in the same manner as special bond counsel. The fees will be discussed with the city manager and agreed upon prior to the rendering of services in this regard.

d. Out-of-Pocket Expenses.

City Attorney's actual out-of-pocket expenses incurred in performing legal services under Agreement, such as copying and approximated Westlaw charges, recording fees, exhibits, real estate title insurance and appraisal work, hotels, airfare, and other outside expert service fees, will continue to be invoiced as a pass through expense and paid separately by the City in accordance with the Agreement.

Section 3. Other Terms of Agreement Not Affected. All other terms of the Agreement which are not modified by this Second Addendum shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned parties have executed this Second Addendum on the date set forth above.

ATTEST

CITY OF PALM COAST, FLORIDA

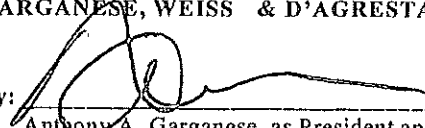
Virginia Smith
City Clerk

By: Jim Landon
Jim Landon, City Manager 11/6/15

DATE APPROVED BY CITY COUNCIL: October 20, 2015



GARGANESE, WEISS & D'AGRESTA, P.A.

By: 

Anthony A. Garganese, as President and Managing
Shareholder