

AGREEMENT FOR PROVISION OF LEGAL SERVICES

The City of Naples (the "City") and Roetzel & Andress, a Legal Professional Association (the "Firm") agree to the provision of legal services to the City by the Firm on the following bases:

1. **Engagement of the Firm.** For the term of this Agreement, the Firm, through James D. Fox ("Fox") as primary attorney and Robert D. Pritt ("Pritt") as senior attorney, together with persons associated with them in the Firm, will function as the City Attorney for the City in accordance with the City's charter, existing code provisions, and Florida statutory law. The City Council hereby appoints Fox as City Attorney and he shall make necessary filings pertaining to that position.

A. **Letter(s) of Operational Details.** The City, by its Mayor, and the Firm, will execute one or more letters setting forth the details concerning Fox's and Pritt's availability for consultation; others in the Firm who may be contacted; a designation of City personnel who may call directly upon their services; and other administrative matters. The details of such letter may be revised with approval of the Mayor so long as coverage levels are maintained. It is the intent of this Agreement that services and resources of the executive assistant who may be assigned to the legal department at City Hall be utilized as well as legal research software existing in the City Attorney's office at City Hall.

B. **Assignment of Matters.** Except for cases and other matters assigned to other attorneys or law firms prior to the date of this Agreement, all legal matters, including claims against the City or by the City, shall be assigned to the Firm and to the attorneys as designated by Fox and the Mayor.

2. **Services, Fees and Expenses.**

A. **General Legal Services.** The City will compensate the Firm for General Legal Services as provided below. General legal services include the following: routine counseling and advice to the City Council, the City Manager and designated staff members; attendance at City Council meetings, Planning Advisory Board meetings, Code Enforcement Board meetings and, as necessary (through request of Mayor, Council or City Manager), specified board or committee meetings; orientation sessions for new board members on Government in the Sunshine and Ethics laws; annual assessment of new legislation; assistance in review and preparation of agenda items for meetings; preparation or review of resolutions, contracts, and ordinances; representation in internal administrative matters and proceedings; Planning Advisory Board services; and providing advice and opinions.

The Firm will provide coverage for General Services of 32 hours per week on average. The number of hours may be lower or higher due to the City's seasonal or other need but will be at least 1,504 hours per year (32 hours per week X 47 weeks=1,504 hours). (Note: This makes the effective hourly rate \$186.17.) Normally, the General Services will be provided on-site subject to Paragraph 1. A, above. Fox (in the first instance) or Pritt (alternatively) will normally provide the General Services but may obtain assistance of other qualified attorneys, clerks or paralegals.

The fee for General Services set forth above will be a flat fee of \$23,333.33 per month, which shall not be exceeded without Council approval.

Council approval shall be by resolution or motion, or as part of the annual budgeting process, and Firm recognizes that actual expenditures may be affected by the annual budget.

The standards for general legal services to be rendered under this Agreement are as follows:

1. The Firm shall provide periodic status reports, either oral or in writing, (currently, quarterly litigation report) as requested by the City at no additional charge.

2. The Firm shall deliver to the City for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the City in the course of providing the Legal Services.

3. The Firm shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

B. **Non-General Legal Services.** The City will compensate the firm at the rate of \$245.00 per hour for partners, 10% off regular rates for associates (not to exceed partner rate) and \$115.00 per hour for paralegals or law clerks/interns, for non-general legal services to the City.

Such non-general legal services are services that are of an extraordinary or unique type that would not be considered general legal services and that would require unusual resources or time (rule of thumb-will be more than (and after expenditure of) 10 hours on a particular matter). Non-general legal services include: non-routine human resources, personnel or employment matters; labor

agreement negotiation and administration; leasing, sales or purchases of real estate or interests in same; cable and telecommunication matters, and matters that are payable from third party sources. If there is a need for other legal services that are considered by the Firm to be of a nature as to be non-general legal services, the Firm may, at any time, approach the City Council regarding such services to request exemption from the flat fee. Fees for services under this paragraph are exempt from the annual fee cap set forth in Paragraph A., above.

C. **Specialized Services.** The City may employ and will compensate the Firm for Specialized Services at rates to be negotiated at the time the services are to be provided. Such services include: opinions and certifications of title, opinions in conjunction with bonds and other borrowings; or with federal, state or local funding. The fees for these specialized services are based upon factors such as amount, risk, time involved and complication. Fees will not exceed reasonable and customary rates for these types of services.

D. **Litigation Services.** The City will compensate the Firm at the rate of \$260.00 per hour for partners of the Firm and 10% less than regular rates for associate attorneys of the Firm (but not greater than the partner rate) for all time expended for litigation services to the City and \$115.00 per hour for paralegals or law clerk/interns. Such litigation services include claims against the City or claims by the City, in courts of law or external administrative proceedings (e.g., Division of Administrative Hearings, Florida Department of Environmental Protection, South Florida Water Management District, Fish & Wildlife Conservation Service, EEOC), Bert J. Harris, Jr. Act claims and similar adversary proceedings.

Litigation services are not subject to the annual fee cap set forth in Paragraph A., above.

E. **Expenses.** The City will reimburse or directly pay reasonable expenses for long distance telephone calls, travel outside of Collier County, long distance fax transmissions, postage, photocopying and expenses incurred in litigation on behalf of the City, when such services are itemized and reflected on the invoice.

F. **Invoices.** The Firm will not bill more often than monthly and will submit invoices for review and approval for payment. The Firm will keep track of hours expended and time and charges for all matters but invoices will be for the monthly fee plus expenses. All invoices are subject to the final review and approval of the Mayor. For non-flat rate matters, each item shall be set forth separately, specifically describing the work performed, and reflecting the actual time spent on each such issue. Clerical services are deemed to be overhead and therefore not billable. Invoices that accurately reflect services rendered shall be paid within 30 days. Corrected billings will be paid by the City at its next billing cycle, not to exceed 45 days. The Firm shall have an itemization of matters, time expended in tenths of an hour, attorney performing the work, and expenses by category available for Council review.

3. **Annual Contract Review.** This Agreement may be reviewed annually during the City's budget hearings and may include a review of the rates and method of billing as noted in Paragraph 2, above. Furthermore, the review may be initiated at any time should the City or the Firm deem it necessary.

4. **Term.** This Agreement was effective October 1, 2017. It will terminate on September 30, 2019; however, Council may renew this Agreement annually for an additional 2 years thereafter. In any event, the Agreement may be terminated by either party at any time upon 60 days advance written notice of termination, and the City has no obligation to the Firm except compensating it for reasonable fees and expenses incurred in accordance with the terms of the Agreement through the termination date.

5. **City Ethics Code.**

A. The Firm will not employ or offer to employ any elected official or city managerial official who in any way deals with, coordinates on, or assists with, the services provided under this Agreement, for a period of 2 years after termination of all provisions of the Agreement.

B. The Firm will not provide services for compensation to another party other than the City on the same subject matter, project or scope of services without Council approval.

C. The Firm will not disclose or use information not available to members of the general public and gained by reason of the Firm's contractual relationship with the City for the special gain or benefit of any other person or business entity, except as specifically contemplated or authorized by the Agreement.

D. "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. In the event the Firm violates the provisions of this

paragraph, the Firm shall be required to pay damages to the City in an amount equal to any and all compensation that is received by the former Elected Officer or City Managerial Employee of the City from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last 2 years of gross compensation from the City, whichever is greater.

6. **Assignment of Legal Matters.** The City may assign legal matters to other attorneys or law firms when the City Council or Mayor (in accordance with Sec. 2.4 of the City Charter) deem it to be in the City's best interest, including matters involving conflicts of interest for the firm or special legal matters requiring a particular legal specialty. All other matters shall be assigned to the Firm and to the attorneys within the Firm as designated by Fox.

7. **Public Records.** Pursuant to S. 119.0701 F. S. as amended in 2016, the Firm must comply with public records laws, specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

(b) 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 in this chapter 119.0701 F.S. or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Firm or keep and maintain public records required by the City to perform the service. If the Firm transfers all public records to the City upon completion of the contract, the Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records

disclosure requirements. If the Firm keeps and maintains public records upon completion of the contract, the Firm 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.

(e) 119.0701 F.S. - CONTACT INFORMATION FOR CITY CUSTODIAN OF PUBLIC RECORDS, CITY CLERK'S OFFICE:

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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (239-213-1015, cityclerk@naplesgov.com; 735 Eighth Street South, Naples, Florida 34102).

Amendment Effective the 15th day of January, 2019. Executed this 19thth day of December, 2018.


ATTEST:



Patricia L. Rambosk
City Clerk



City of Naples



Bill Barnett
Mayor

Roetzel & Andress,
A Legal Professional Association



James D. Fox, For the Firm