

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 Robert D. Pritt ("Pritt") as primary attorney and Robert G. Menzies ("Menzies") as head of litigation services, 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 continues its appointment of Pritt 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 Pritt's availability for consultation; others in the Firm who may be contacted; a designation of City personnel who may call directly upon Pritt's 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 legal coordinator at City Hall be utilized as well as the more cost efficient 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 Pritt (general services) or Menzies (litigation services) and the Mayor.

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

A. General Legal Services. The City will compensate the Firm at the rate of **\$215.00** per hour of lawyer time expended for general legal services to the City for Pritt or any other partner and at 10% less than regular billing rates for any associate, but not to exceed partner rates. The partner rate will increase to **\$230.00** per hour on October 1, 2006 and to **\$245.00** per hour on October 1, 2007. Such 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, Code Enforcement Board meetings and, as necessary (through request of Mayor, Council or City Manager), specified board or committee meetings; orientation sessions for new boards 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 and contracts; preparation of ordinances; representation in internal administrative matters and proceedings; and Planning Advisory Board services.

The fees for the services set forth in this paragraph (except for Planning Advisory Board services) are limited to **\$258,000.00** per fiscal year (October 1 through September 30). This annual fee cap is based upon a monthly calculation of **\$21,500.00**. The cap shall be raised each year in proportion to the increase in fees each year. Each monthly billing may be above or below this monthly calculation, but the annual fee cap shall not be exceeded without Council approval. Council approval shall be by resolution or motion, or as part of the annual budgeting process.

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, 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 rates provided in A. above 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. 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, and cable and telecommunication matters. 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 annual fee cap. 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 **\$250.00** per hour for partners of the Firm and 10% less than regular rates for associate attorneys of the Firm for all time expended for litigation services to the City. The partner rate will increase to **\$265.00** per hour on October 1, 2006 and to **\$280.00** per hour on October 1, 2007. 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), 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. **Paralegal Services.** The City will compensate the Firm at the rate of \$95.00 per hour for paralegal services to the City in the first year, \$100.00 in the second year and \$105.00 in the third year. Paralegal services performed in conjunction with general legal services are subject to the annual fee cap set forth in Paragraph A., above, but paralegal services in conjunction with non-general legal services and litigation services are not subject to the annual fee cap set forth in Paragraph A, above.

F. **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.

G. **Invoices.** The Firm will not bill more often than monthly and will submit invoices for review and approval for payment. All invoices are subject to the final review and approval of the Mayor. 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 thirty(30) days. Corrected billings will be paid by the City at its next billing cycle, not to exceed forty-five(45) days. Invoices shall have an itemization of matters, time expended in tenths of an hour, attorney performing the work, and expenses by category.

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

4. **Term.** This Agreement shall be effective October 1, 2005. It will terminate on September 30, 2008; 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 two(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 Pritt (general services) or Menzies (litigation services).

Executed this ____ day of _____, 2005.

The City of Naples

Roetzel & Andress
A Legal Professional Association

By: _____
Bill Barnett
Mayor

By: _____
Robert D. Pritt
For the Firm

Attest:

Tara Norman, City Clerk

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