

AGREEMENT FOR PROVISION OF LEGAL SERVICES

THIS AGREEMENT is made and entered into effective the **21st day of March, 2007** by and between the City of Naples, a Florida municipal corporation, 735 Eighth Street South, Naples, FL, 34102-6073, hereinafter referred to as the “City,” and the law firm of **Oertel, Fernandez, Cole and Bryant, P.A., Post Office Box 1110, Tallahassee, Florida 32302-1110**, hereinafter referred to as the “Firm”.

In consideration of the mutual covenants and agreements expressed in this Agreement, the City and the Firm agree as follows:

1. **ENGAGEMENT OF FIRM.** For the term of this Agreement, the City engages the Firm to provide the special legal services as set forth in this Agreement. The Firm agrees to render the legal services set forth in this Agreement in a timely, professional and competent manner. **Oertel, Fernandez, Cole and Bryant, P.A** shall assume primary responsibility for management of the Legal Services. The Firm may perform services through associate attorneys, law clerks and paralegals.

2. **SCOPE OF SERVICES.** The services to be rendered under this Agreement are as follows:
Legal representation of the City regarding waterway related issues, including Consent Orders issued by the DEP(Department of Transportation) for violations at the City Dock and the adjacent Mooring Field, prosecution and appeals as needed;

3. **SERVICE STANDARDS.** The services to be rendered under this Agreement are as follows:
 - a. The Firm shall provide periodic status reports, either oral or in writing, as requested by the City.

 - b. 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.

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

4. **BILLING RATES.** The hourly billing rates, computed in tenths of an hour, will be as outlined below and will not increase during the term of this Agreement without prior approval of the Naples City Manager. In instances where there are conferences between attorneys and/or law clerks or paralegals, the firm will not bill for more than one billing individual.

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| a. Senior Attorney: | \$275/hr. |
| b. Associates: | \$175 /hr. |
| c. Law Clerks: | \$ 60/hr. |

5. **INVOICES.**

- a. Billing: The Firm will not bill more often than monthly and will submit an invoice to the City Manager's office 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.
 - b. Payment: Invoices that accurately reflect services rendered and conditions outlined herein will be paid within 30 days. Corrected billings will be paid by the City at its next billing cycle, not to exceed 45 days.
 - c. Reasonable Costs: The City will reimburse for reasonable costs and out-of-pocket expenses including computer research (only if not available through City Attorney's office), long distance telephone charges, overnight or express mail service, photocopying travel at the rate set forth in the City's travel policy, facsimile, when such services are itemized and reflected on the invoice.
6. CLIENT FILES. The Attorney shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least 1 year after the City's fiscal year-end (September 30) following the completion of this Agreement. The City shall have access to such books, records and documents as required in this subparagraph and as are related to the charges, expenses, and costs, for the purpose of inspection or audit during normal business hours at the Firm's office and at the City's expense, upon 5 days written notice. This time period shall not apply to records, documents, etc. produced on behalf of the City by the Firm that are subject to Florida Statute and public record laws and that either the original or a copy of such document has not been furnished to the City.
7. CONFLICT OF INTEREST. Conflicts will be determined according to the Rules Governing the Florida Bar. The Firm will make every effort through an internal conflict checking system to discover conflicts. If future conflicts do arise, the Firm shall request a waiver from Council. If the Council does not approve the waiver, the City may choose other lawyers to represent its interests if no agreement could be reached that the Firm could represent the City in those matters. Due to the nature of this matter, the Council is unlikely to grant a waiver where there is a conflict or appearance of conflict.
8. CITY ETHICS: The Firm agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of the City who in any way deals with, coordinates with, or assists with, the professional services provided in this Agreement, for a period of 2 years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "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 which 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.

9. EFFECTIVE DATE. This Agreement shall be in effect as of the date set forth above, providing that the Agreement has been approved by Council and executed by the Firm and the Mayor.

10. TERMINATION OF AGREEMENT. **This Agreement shall remain in force until September 30, 2007 unless earlier terminated by either party.** It is terminable by either party for any reason upon 60 days written notice to the other party. The Firm's obligations upon termination shall be as set forth in the Rules Regulating the Florida Bar in order to protect the client's interests. The City's obligation is to compensate the Firm for reasonable fees and expenses in accordance with the terms of the Agreement through the termination date.

11. ENTIRE AGREEMENT. The foregoing terms and conditions constitute the entire agreement between the parties hereto and any representation not contained herein shall be null and void and of no force and effect. Further, this Agreement may be amended only in writing upon mutual consent of the parties hereto.

Witness

Oertel, Fernandez, Cole and Bryant, P.A.

Segundo Fernandez, For the Firm
Date: _____

City of Naples, Florida

Attest: _____
Tara A. Norman, City Clerk

Robert E. Lee, City Manager

Date: _____

Approved as to Form and Legality:

Robert D. Pritt, City Attorney