



**CITY OF BELLE SLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: September 19, 2017

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: City Attorney Contract

Background: At the September 13 Special Council Meeting, Council interviewed three firms who submitted Proposals for the City Attorney position. The Council voted to hire Fishback Dominick Law firm as the City Attorney. The City Manager reviewed the contract for Fishback Dominick and agrees that it satisfies the requirements of the proposal as set out in the RFP.

Staff Recommendation: Council approves the contract.

Suggested Motion: I move that we approve the contract of the City Attorney and appoint the law firm of Fishback Dominick as the Belle Isle City Attorney. .

Alternatives: Do not approve the contract.

Fiscal Impact: As stated in Section 3 of the contract.

Attachments: Legal Services contract

RETAINER AGREEMENT FOR LEGAL SERVICES

THIS RETAINER AGREEMENT FOR LEGAL SERVICES (this "Agreement") made and entered into this ___ day of September 2017, by and between FISHBACK, DOMINICK, BENNETT, ARDAMAN, AHLERS, LANGLEY & GELLER LLP a/k/a Fishback Dominick, whose address is 1947 Lee Road, Winter Park, Florida 32789-1834, (hereinafter referred to as the "Firm"), and the CITY OF BELLE ISLE, a municipal corporation of the State of Florida, whose address is 1600 Nela Avenue, Belle Isle, FL 32809 (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, the Firm desires 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 selection after a competitive request for proposal process; and

WHEREAS, the City is authorized under the City of Belle Isle Charter, Florida Constitution and the laws of the State of Florida to enter into this Agreement and to perform all of its obligations hereunder; and

WHEREAS, the City of Belle City Council pursuant to the City Charter did select and appoint A. Kurt Ardaman and Daniel W. Langley of FISHBACK, DOMINICK, BENNETT, ARDAMAN, AHLERS, LANGLEY & GELLER LLP a/k/a Fishback Dominick to serve as City Attorney for the City of Belle Isle.

NOW THEREFORE, in consideration of the agreement and promises set forth herein and other good and valuable consideration, the parties agree as follows:

1. ENGAGEMENT OF FIRM. Effective on October 1, 2017, the City engages the Firm and the Firm agrees to perform the legal services for the City as set forth herein. A. Kurt Ardaman and Daniel W. Langley shall serve as the primary City Attorneys to provide legal services under this Agreement and are hereby appointed and shall serve in the capacity of City Attorney to the City of Belle Isle in accordance with the City Charter and the Code of Ordinances of the City. In the event of Mr. Ardaman's and Mr. Langley's temporary absence due to scheduling conflicts, vacation or sickness, John F. Bennett, Richard Geller, or one of the Firm's other experienced municipal lawyers will attend such meeting(s). The other attorneys of the Firm will also provide legal services to the City as the need arises and shall serve as assistant city attorneys.

2. SCOPE OF SERVICES.

A. The City of Belle Isle, acting by and through its City Council as a collegial body, is the Firm's client, and the Firm shall take direction from the City Council and, on a day to day basis, from the City Manager. The Firm shall provide professional advice, counsel, representation, and legal services, as may be assigned and as necessary to protect the City's

interests, including, but limited to: (i) attending all regular and special meetings of City Council unless excused by the City Council or City Manager; (ii) attending all regularly scheduled Planning and Zoning Board unless excused by the City Council or City Manager and, upon request, attend any other City board, commission or committee meetings; (iii) be available as needed or requested by the Council, City Manager, Mayor and individual Commissioners and staff to review, research and provide advice and counsel with regarding to questions of law, development applications, contracts, ordinances, actions/inactions, legislation and other matters needed or required by the City; (iv) represent the City in proceedings before all federal and state courts and administrative proceedings in the State of Florida; (v) 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; (vi) real estate transactions; (vii) provide City Attorney Opinions for bond financing transactions; and (viii) draft ordinances, resolutions, contracts, development agreements, interlocal agreements, and other agreements.

B. In compliance with Section 112.313(16)(c), Florida Statutes, Mr. Ardaman, Mr. Langley and the Firm may recommend, refer or assign legal work for the City to attorneys, law clerks and paralegals within the Firm and to “of-counsel” attorneys associated with the Firm.

C. It is acknowledged that the City may elect to assign certain legal services to outside legal counsel not associated with the Firm in certain matters, for example where the City’s insurer will provide legal counsel for the City, retirement and pension benefits matters, union and employment law matters and bond counsel services. The Firm shall not be responsible for matters the City assigns to legal counsel/attorneys outside of the Firm. As the Firm deems appropriate and in specialized matters, the Firm may recommend to the City that special legal counsel be used for defined purposes. If recommended by the 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 under the ordinances and rules of the City. All other requests to utilize special counsel shall be subject to prior approval of the City Council.

3. COMPENSATION. Compensation to the Firm from the City will consist of a monthly retainer, an hourly rate for services, reimbursement of costs as incurred and other compensation as follows:

A. Retainer Services. A retainer in the amount of \$3,800.00 per month will be paid by the City to the Firm. The monthly retainer amount covers the Firm’s legal services to the City for up to the first twenty (20) hours of work per month, excluding fees and costs covered by paragraphs 3. C. through 3. G., inclusive. This retainer amount would cover: (i) the Firm’s representation of Belle Isle at all regularly scheduled City Council meetings, special meetings and workshops and all regularly scheduled meetings of Planning & Zoning Board or other City Boards requiring the attendance of an attorney; (ii) time spent on telephone calls between the City Attorney and City Council members; and (iii) telephone calls between the City Attorney and the City Manager and Department Heads; all for up to twenty (20) hours per month. The retainer excludes meetings, telephone calls and other matters pertaining to litigation. In the event that attorney time for retainer matters does not meet or exceed 20 hours in any given month, the City will be given a credit on non-retainer legal services for the amount of time to make up the

difference between the 20 hours and the amount of time spent on retainer matters. In other words, the City will receive a minimum of 20 hours of legal services per month for the monthly retainer amount.

B. General Services. All matters and services that are not covered by the monthly retainer shall be billed on an hourly basis (in increments of one-tenth of an hour) at the following rates:

Partners and Board Certified Attorneys	\$225.00 per hour
Associates (non-Board Certified)	\$200.00 per hour
Paralegals & Law Clerks	\$125.00 per hour
Legal Assistants	\$80.00 per hour

C. Litigation Services. Litigation services including administrative, arbitration, and court and appellate proceedings, shall be at the same rates as provided in subsection 3.B. above.

D. With regard to cost reimbursement, the City agrees to reimburse the Firm for its out-of-pocket costs, including court filing fees, court reporter's fees, long distance telephone calls, facsimile charges, electronic research (e.g. Lexis-Nexis and Westlaw), real estate closing costs, express delivery charges, postage, printing, costs of reproducing documents (in firm copies billed at \$0.20 per copy), and necessary travel expenses at IRS standard mileage rates (not to include mileage back and forth to City Hall or the Orange County Courthouse) and other similar expenses.

E. The rendering of title commitments and issuance of title insurance policies incident to the purchase or sale of real estate by City will be in accordance with applicable promulgated rates for such insurance plus cost of title search. The Firm shall serve as title agent on all transactions involving the City's purchase or sale of real property, unless otherwise directed by the City Council. Real estate transaction and closing services will be charged at hourly rates set forth in subsection 3. B.

F. For legal services involving the City Attorney's issuance of an opinion letter concerning the legality of the City's issuance of general obligation bonds, revenue bonds, or other types of bonds or notes, the Firm shall receive a lump sum fee for such services to compensate the Firm not only for the time incurred in reviewing and revising the bond documents and the drafting of an legal opinion letter, but also to compensate the Firm for the risks associated with issuing the opinion letter based on the following:

.005 of bond amount for bonds up to \$5,000,000 (minimum \$7,500);
Over \$5,000,000 – Charge the above up \$5,000,000 plus .0015 of amounts over \$5,000,000.

G. For legal services provided by the Firm in which third parties reimburse the City (such as development review pass through matters reimbursed by applicants/developers and prevailing party attorneys' fee awards), the Firm's hourly rates will be one-third higher than the hourly rates provided to the City under Paragraph 3. B. of this Agreement (rounded up to the

services provided by the Firm under this Agreement are performed as an officer of the City and therefore, the City hereby extends protections afforded by Section 111.07, Florida Statutes to the Firm and each of its partners, attorneys, law clerks paralegals and other employees, and the City shall defend the same accordingly.

8. LAWS. The parties acknowledge that this Agreement is governed by the laws of the State of Florida and is binding upon the parties' successors and assigns.

9. ENTIRE AGREEMENT. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to such terms herein, and also as a complete and exclusive statement of such terms. There are no other provisions, terms, conditions or obligations. Provided however, the terms of this Agreement may be subsequently modified in writing upon the mutual consent of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be made and entered into the day and year first written above.

FIRM:

CITY OF BELLE ISLE

Fishback, Dominick, Bennett, Ardaman,
Ahlers, Langley & Geller LLP

Lydia Pisano, Mayor

A. Kurt Ardaman, Partner
For the Firm

ATTEST:

Daniel W. Langley, Partner
For the Firm

Yolanda Quiceno, City Clerk