

**AGREEMENT FOR INTERIM CITY ATTORNEY LEGAL SERVICES BETWEEN THE
CITY OF CLEWISTON GROVES AND GRAYROBINSON, P.A.**

LEGAL SERVICES AGREEMENT

THIS LEGAL SERVICES AGREEMENT (“Agreement”) is entered on ____ day of _____, 20__, by and between the CITY OF CLEWISTON GROVES, a Florida municipal corporation (“City”) and GRAYROBINSON, P.A., a corporation authorized to do business in the State of Florida (“Firm”).

RECITALS

WHEREAS, the City issued a Request for Letters of Interest from qualified firms to provide municipal legal services to the City;

WHEREAS, the Firm submitted a Letter of Interest to the City, which the City Commission desires to accept;

WHEREAS, the purpose of this Agreement is to set forth certain terms and conditions for the provision of legal services by the Firm to the City.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and the Firm agree as follows:

SECTION 1: INCORPORATION OF RECITALS. The foregoing Recitals are incorporated into this Agreement as true and correct statements.

SECTION 2: FIRM’S SERVICES. As more specifically set forth in the City’s Request for Letters of Interest’s scope of services, the Firm shall be the City Attorney and shall provide the City with general municipal legal services and such other matters of a non-routine legal nature requiring substantial time and effort, subject to prior authorization by a majority of the City Council or City Manager.

SECTION 3: TERM AND TERMINATION.

a. Term. The term of this Agreement shall commence upon the approval of this Agreement by the City Council and shall continue until September 30, 20__, unless extended by the City Council or until this Agreement is terminated as stated herein.

b. Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than thirty (60) days written notice of termination.

c. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation and political subdivision of the state of Florida, and as such, this Agreement

is subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Firm of such occurrence and either the City or Firm may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, the City shall pay Firm for all services performed under this Agreement through the date of termination.

SECTION 4: COMPENSATION.

a. Compensation. The City agrees to compensate the Firm at the rate of \$___ per hour for services performed by the Firm's attorneys and \$___ per hour for the Firm's legal assistances preparation of documents or other services which exceed thirty (30) minutes of time.

b. Reimbursements. The city will reimburse the Firm for any out-of-pocket expenses, including, but not limited to, filing fees, long distance telephone charges, postage charges, courier fees, outside printing, photocopying, court reporting and transcription fees. Payment for some of these fees are outlined more specifically below.

- i. In-house photocopying will be paid at the rate of twenty-five cents (.25) per page (with each invoice specifying the number of copies for which reimbursement is sought).
- ii. The city will not pay for local facsimile transmissions.
- iii. Long distance telephone calls must state the number of calls, date, length of call, and per minute cost.
- iv. Any travel, per diem, mileage (IRS rate), or meal expenses, which may be reimbursable, must be approved in advance (orally) and will be paid in accordance with the rates and conditions set forth in section 112.061, Florida Statutes.
- v. The city does not pay for local travel (Hendry), including, but not limited to, the attorney's time for such local travel and/or reimbursement for meals.
- vi. For all disbursements, the city requires copies of paid receipts, invoices, or other documentation acceptable to the City of Clewiston's Finance Department. Such documentation must be sufficient to establish that the expense was actually incurred and necessary in the performance of the legal services provided.

- vii. The City will not be responsible for the cost of any computerized legal research service that the Firm receives on a fixed or “flat fee” basis. For payment of computerized research on a “per minute” basis, the City requires copies of transaction reports indicating the total time for each research session, the charge per minute, and a brief description of the issues researched. Any extensive research project (research in excess of three hours whether said research is performed during one session or over several sessions or which is likely to exceed \$300) must be discussed with and approved in advance. Since assignments are made to firms which have been selected for their expertise areas of law, the city will not pay for research that is routine in nature. The city will pay only for updating and Sherardizing existing research and/or fact specific research.

c. Invoices. The Firm shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will normally be paid within thirty (30) days following the City’s receipt of the Firm’s invoice.

SECTION 5: INDEMNIFICATION. The Firm, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, of the Firm, its officers, directors, employees, representatives and agents employed or utilized by the Firm in the performance of the services under this Agreement. The city agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Firm, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

SECTION 6: COMPLIANCE AND DISQUALIFICATION. Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties’ performance of this Agreement.

SECTION 7: PERSONNEL. The Firm represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All the services required hereunder shall be performed by the Firm or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state, and local law to perform such services.

SECTION 8: INDEPENDENT CONTRACTOR RELATIONSHIP. No relationship of employer or employee is created by this Agreement, it being understood that Firm will act hereunder as an independent contractor and none of the Firm’s, officers, directors, employees,

independent contractors, representatives or agents performing services for Firm pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Firm is that of independent contractors, and neither shall be considered a joint venture, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

SECTION 9: FEDERAL AND STATE TAX. The city is exempt from payment of Florida State Sales and Use Tax. The Firm is not authorized to use the City’s Tax Exemption Number.

SECTION 10: INSURANCE. Prior to commencing any services, the Firm shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than “excellent” by A.M. Best or as mutually agreed upon by the City and the Firm. All such insurance policies may not be modified or terminated without the express written authorization of the City.

| Type of Coverage | Amount of Coverage |
|---|--|
| Professional liability/ Errors and Omissions | \$1,000,000 per occurrence |
| Commercial general liability (Products/completed operations Contractual, insurance broad form property, Independent Firm, personal injury) | \$1, 000,000 per occurrence |
| Automobile (owned, non-owned, & hired) | \$2,000,000 annual aggregate \$ 1,000,000 single limits |
| Worker’s Compensation | \$ statutory limits |

The certificates shall clearly indicate that the Firm has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Firm of its liability and obligations under this Agreement.

SECTION 11: SUCCESSORS AND ASSIGNS. The City and the Firm each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other parties, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

SECTION 12: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES. All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator’s fee equally. The mediation shall be held in Hendry County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction

thereof. This Agreement shall be governed by the laws of the State of Florida. All legal action necessary to enforce the Agreement will be held in Hendry County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder, 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.

SECTION 13: WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

SECTION 14: ACCESS AND AUDITS. The Firm shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for inspection or audit during normal business hours, at the Firm's place of business. In no circumstances will Firm be required to disclose any confidential or proprietary information regarding its products and service costs.

SECTION 15: NONDISCRIMINATION. The Firm warrants and represents that all its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

SECTION 16: AUTHORITY TO PRACTICE. The Firm hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

SECTION 17: SEVERABILITY. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

SECTION 18: PUBLIC ENTITY CRIMES. Firm acknowledges and agrees that 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, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor 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,

Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Firm will advise the city immediately if it becomes aware of any violation of this statute.

SECTION 19: NOTICE. All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

City of Clewiston
Attn. City Manager
115 West Ventura Avenue
Clewiston, FL 33440

and if sent to the Firm, shall be sent to:

GrayRobinson
Attorneys| Advisors| Consultants
1404 Dear Street
Suite 300
Fort Myers, FL 33901

The foregoing names and addresses may be changed if such a change is provided in writing to the other party. Notice shall be deemed given upon receipt.

SECTION 20: ENTIRETY OF AGREEMENT. The City and the Firm agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 21: WAIVER. Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

SECTION 22: PREPARATION AND NON-EXCLUSIVE. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement, and the City reserves the right to contract with individuals or firms to provide the same or similar services.

SECTION 23: MATERIALITY. All provisions of the Agreement shall be deemed material. In the event Firm fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the Firm to terminate for cause.

SECTION 24: LEGAL EFFECT. This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

SECTION 25: SURVIVABILITY. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

SECTION 26: COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

SECTION 27: PUBLIC RECORDS. The Firm shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes specifically agrees to:

- a. Keep and maintain public records required by the city to perform the service.
- b. Upon request from the City's custodian of public records or designee, 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 Chapter 119, Florida Statutes, 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 for the duration of this Agreement and following completion of this Agreement if the Firm does not transfer the records to the City.
- d. Upon completion of this Agreement, 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 Agreement, the Firm shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the Firm keeps and maintains public records upon completion of the Agreement, 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 or designee, in a format that is compatible with the information technology systems of the City.

IF THE FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF CLEWISTON GROVES, ATTN: CITY CLERK, AT (561) 793-2418, LAKISHA.BURCH@CLEWISTON-FL.GOV, 115 WEST VENTURA AVENUE, CLEWISTON, FL 33440.

SECTION 29: NO THIRD-PARTY BENEFICIARIES. There are no third-party beneficiaries under this Agreement.

SECTION 30: SCRUTINIZED COMPANIES.

a. The Firm certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Firm or any of its subcontractors are found to have submitted a false certification; or if the Firm or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

b. If this Agreement is for one million dollars or more, the Firm certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Firm, or any of its subcontractors are found to have submitted a false certification; or if the Firm or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

c. The Firm agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

d. The Firm agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

e. The Firm agrees that if it or any of its subcontractors' status changes regarding any certification herein, the Firm shall immediately notify the City of the same.

f. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties hereto have made and executed this Legal Services Agreement as of the day and year set forth above.

City of Clewiston

By:

James Pittman, Mayor

Approved as to form and legal sufficiency:

City Attorney

ATTEST:

Lakisha Q. Burch, City Clerk

Municipal Seal

GrayRobinson, P.A.

By: _____
Derek P. Rooney