

**PROFESSIONAL SERVICES AGREEMENT BETWEEN THE
TOWN OF FORT MYERS BEACH
AND
RONALD L. BOOK, PA**

THIS AGREEMENT is made and entered into between Ronald L. Book, P.A., a Florida limited liability company, (hereinafter the “Consultant”), and the **TOWN OF FORT MYERS BEACH, FLORIDA**, a Florida municipal corporation, (hereinafter the “Town”).

WHEREAS, the Consultant and Town, through mutual negotiation, have agreed upon a scope of services and fee for legislative consulting services on behalf of the Town before the Florida Legislature, the executive branch of the Florida government, and various regional and local governments; and

WHEREAS, the Town desires to engage the Consultant to perform the legislative consulting services specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the Town agree as follows.

1. **Scope of Services/Deliverables.**

- 1.1 Consultant shall provide legislative consulting services on behalf of the Town before the Florida Legislature, the executive branch of the Florida government, and various regional and local governments.
- 1.2 Specifically, Consultant shall provide the following services:
 - 1.2.1 No less than once a year, in person, meet with the Town Council and staff to assist the Town in developing a legislative program.
 - 1.2.2 Monitor and report on all state agency programs of interest to the Town, including any programs that could be helpful in funding, planning and operating the Town.
 - 1.2.3 Represent Town’s interests before the Florida legislature and any executive branch body and any other entity that could be of benefit to the Town’s interests.
 - 1.2.4 Monitor and track all legislation of interest to the Town.
 - 1.2.5 Provide no less than monthly reports during the legislative session and quarterly reports during the non-session months to the Town Manager and Town Attorney on all legislation being tracked. Such reports will be electronically transmitted to the Town Manager and Town Attorney.

- 1.2.6 Host Town officials during the legislative session in Tallahassee and arrange all appropriate meetings.
- 1.2.7 Attend staff meetings, workshops or Council meetings in Fort Myers Beach at the Town Manager's request.

2. **Term/Commencement Date.**

- 2.1 This Agreement is effective upon execution by both parties. The initial term is from November 7, 2019 through September 30, 2020 unless earlier terminated in accordance with Paragraph 8. The agreement can be extended by mutual consent of the Consultant and Town Council.

3. **Compensation and Payment.**

- 3.1 For all professional services provided by Consultant described in Section 1, the Town shall pay Consultant an annual fee of \$45,000.00, payable in four (4) equal quarterly installments of \$11,250.00.
- 3.2 Consultant shall be entitled to reimbursement of expenses incurred as a result of its representation of the Town. Such expenses may include use of on-line legislative and legal resources, copying and facsimile charges, postage and overnight delivery charges and other expenses directly related to representation of the Town. However, the total of such charges shall be capped at \$5,000 per year.
- 3.3 Consultant shall be reimbursed by the Town for reasonable travel expenses provided such expenses are pre-approved by the Town Manager in writing. If Consultant is traveling on behalf of several clients, the Town shall be charged only its pro-rated portion of the costs incurred.
- 3.4 Reimbursement of costs and travel expenses shall be paid by the Town to the Consultant upon approval of an invoice, including appropriate receipts and back-up documents.
- 3.5 Payments and reimbursements due under this section shall be paid by the Town pursuant to the Florida Prompt Payment Act.
- 3.6 If a dispute should occur regarding an invoice submitted, the Town Manager may withhold payment of the disputed amount and may pay to the Consultant the undisputed portion of the invoice. Upon written request of the Finance Director, the Consultant shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the Town Manager whose decision shall be final.

4. **No Subconsultants or Assignment.**

- 4.1 Although this Agreement is with Consultant, the parties understand that the services of Consultant are personal in nature and that the following members of Consultant's firm shall be designated by Consultant to perform services under this Agreement is Ronald L. Book.
- 4.2 In the event that any member of the firm can no longer perform services under this Agreement, Consultant shall immediately notify the Town Manager and the Town Manager shall have the right to immediately terminate this Agreement.
- 4.3 This Agreement shall not be subject to assignment by Consultant without prior written consent of the Town.

5. **Town's Responsibilities**

- 5.1 Furnish to Consultant, at the Consultant's written request, all available maps, plans, existing studies, reports and other data pertinent to the services to be provided by Consultant, in possession of the Town.

6. **Consultant's Responsibilities**

- 6.1 The Consultant shall exercise the same degree of care, skill and diligence in the performance of the work under this Agreement as is ordinarily provided by a professional under similar circumstances.

7. **Conflict of Interest.**

- 7.1 Consultant shall not be prohibited from representing or providing the like services to other persons and entities other than the Town, so long as Consultant shall avoid any representation or relation that would create a conflict of interest, as determined by the Town Attorney and Town Council.
- 7.2 Consultant shall not take on any client or matter, which would jeopardize Consultant's ability to devote the time, resources, and effort necessary to fulfill its obligations to the Town.

8. **Termination.**

- 8.1 Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other.
- 8.2 The Town may terminate this Agreement immediately with cause.

- 8.2 Upon receipt of the Town's written notice of termination, Consultant shall stop all work on behalf of the Town unless directed otherwise in writing by the Town Manager.
- 8.3 In the event of termination, the Town shall be obligated to pay the Consultant only for approved fees and costs incurred by the Consultant prior to the date of termination. If the Consultant has already received the quarterly fee payment, the Consultant shall refund a pro-rated percentage of the fee back to the Town.

9. **Insurance.**

The Contractor shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the Town Manager. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. If requested by the Town Manager, the insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers. The insurance coverages shall include a minimum of:

- 9.1 Worker's Compensation and Employer's Liability Insurance. If applicable, coverage to apply for all employees at minimum statutory limits as required by Florida Law. Consultants with Worker's Compensation exemption shall not hold Town liable for employee injury or claims.
- 9.2 Comprehensive Automobile and Vehicle Liability Insurance. Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$100,000 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- 9.3 Professional Liability. The Consultant shall furnish professional liability errors and omissions insurance coverage in an amount not less than \$1,000,000.
- 9.4 Certificates of Insurance shall be provided to the Town at the time of execution of this Agreement and certified copies provided if requested. Certificates of Insurance shall include the Town as additional insured or certificate holder. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted.

10. **Nondiscrimination.**

10.1 During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination

11. **Attorneys Fees and Waiver of Jury Trial.**

11.1 In the event of any litigation arising out of this Agreement each party shall be responsible for its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

12. **Indemnification.**

12.1 Consultant shall defend, indemnify, and hold harmless the Town, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with Consultant's performance or non-performance of any provision of this Agreement. Consultant shall reimburse the Town for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with Consultant's performance or non-performance of this Agreement.

12.2 The provisions of this section shall survive termination of this Agreement.

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13. **Notices/Authorized Representatives.**

13.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the Town: Roger T. Hernstadt, Town Manager
Town of Fort Myers Beach, Florida
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
239-765-0202

For The Consultant: Mr. Ronald L. Book, President
Ronald L. Book, P.A.
18851 NE 29 Ave., Ste. 1010
Aventura, FL 33180
305-935-1866

14. **Governing Law.**

14.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Lee County, Florida.

15. **Entire Agreement/Modification/Amendment.**

15.1 This writing contains the entire Agreement of the parties and supercedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. **Ownership and Access to Records and Audits.**

16.1 All records, books, documents, papers and financial information (the "Records") that result from the Consultant providing services to the Town under this Agreement shall be the property of the Town.

16.2 The Town Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Consultant involving transactions related to this Agreement.

16.3 The Town may cancel this Agreement for refusal by the Consultant to allow access by the Town Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

17. **Severability.**

17.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

18. **Independent Contractor.**

18.1 The Consultant and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

19. **Compliance with Laws.**

19.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

20. **Waiver**

20.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

21. **Survival of Provisions**

21.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

22. **Prohibition Of Contingency Fees.**

22.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

23. **Counterparts**

23.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The Town, signing by and through its Town Manager, attested to by its Town Clerk, duly authorized to execute same and by Consultant by and through Ronald L. Book, who has been duly authorized to execute same.

ATTEST:

TOWN OF FORT MYERS BEACH: 


Michelle Mayher, Town Clerk

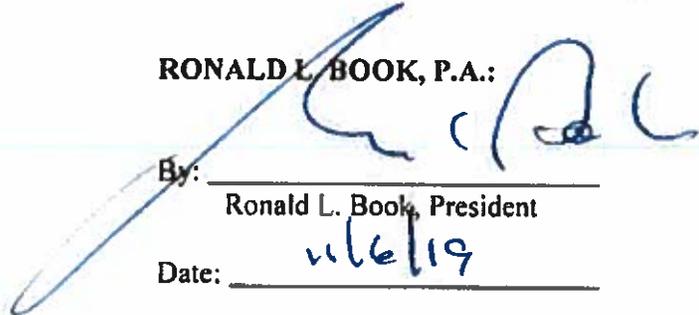
By: 
Roger Y. Hernstadt, Town Manager

Date: November 12, 2019

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA ONLY:


Town Attorney

RONALD L. BOOK, P.A.:


By: _____
Ronald L. Book, President

Date: 11/6/19