

March 21, 2013

AGENDA ITEM 5.: LEGAL SERVICES AGREEMENT

BACKGROUND:

On February 21, 2013, the Authority authorized the Executive Director to develop a proposed contract between the Authority and Lewis, Longman & Walker (LLW) for legal services. This contract would be reviewed as deemed appropriate by outside counsel and the final contract would be presented to the Authority for approval.

The Executive Director has worked with LLW to prepare a proposed contract for consideration. This proposal has been sent to the Law firm of WilliamsParker Harrison Dietz & Getzen for review. The agreement will be finalized before March 21st and a revised agenda item will be sent for your review and consideration.

ATTACHMENTS:

To be provided.

COST AND FUNDING SOURCE:

Budget port revenues.

CONSEQUENCES IF DEFERRED:

Delay in approval of legal services agreement.

LEGAL COUNSEL REVIEW: In process

RECOMMENDATION:

A revised agenda item will be provided.

APPROVED IN OPEN SESSION

MAR 21 2012

MANATEE CO. PORT AUTHORITY

PORT MANATEE LEGAL SERVICES AGREEMENT

The MANATEE COUNTY PORT AUTHORITY, a political entity of the State of Florida, with its principal place of business located at Port Manatee, 300 Tampa Bay Way, Palmetto, Florida 34221 (the "Authority") and LEWIS, LONGMAN & WALKER, P.A., Attorneys At Law, with a place of business located at 101 Riverfront Boulevard, Suite 620, Bradenton, Florida 34205 ("Firm"), for and in consideration of the mutual covenants herein contained and other good and valuable consideration, mutually agree as follows:

1. **ACKNOWLEDGMENTS.** In January 2009, the Authority retained Lewis, Longman & Walker, P.A. pursuant to a Request for Proposal to be the Manatee County Port Authority Attorney. The Authority is pleased with the services provided by the Firm and desires to continue to retain Lewis, Longman & Walker, P.A. as the Authority Attorney under the terms and conditions set forth in this Agreement which supersedes the prior agreement.

2. **PROFESSIONAL LEGAL SERVICES.** The Firm is designated to continue as the Authority Attorneys and shall perform all of the professional services customarily associated with being the attorneys or general counsel for a unit of local special purpose government, and such other services directed or requested from time to time by the Authority.

3. **GENERAL COUNSEL COMPENSATION, TERMS AND CONDITIONS.**

A. The Firm will perform all General Counsel services (with the special exceptions set forth in 3B, 3C and 3D in this Agreement) for an annual total fee not to exceed \$230,000, plus costs, for the fiscal year 2012-2013; \$235,000, plus costs, for fiscal year 2013-2014; and \$240,000, plus costs, in fiscal year 2014-2015. All general counsel services will be performed under the general services

matter number for a reduced hourly rate of \$185/hour for all Firm attorneys, including senior attorneys and shareholders, beginning March 1, 2013. The hourly rate for all Firm Attorneys for General Counsel services for FY2014 and FY2015, will be \$190 per hour and \$195 per hour, respectively. The hourly rate for all Firm Paralegals will be \$120 in FY2013; \$125 in FY2014; and \$130 in FY2015. General Counsel Services will also include the monitoring and oversight of litigation brought against the Port in which the Firm attorneys do not enter an appearance as Counsel and will include the handling of potential and actual claims for damages estimated not to exceed \$250,000, unless it is determined by the parties to be significant or complex litigation.

B. All significant or complex litigation matters performed by Firm attorneys will be done at a rate of \$235 per hour for senior attorneys and shareholders, and \$185 per hour for associates. Significant or complex litigation is such litigation that is identified by the Port Attorney and brought to the attention of the Port Director and approved by the ^{Authority}~~Commission~~ in a request for additional compensation. Significant or complex litigation means litigation that may include some or all of the following factors: (1) is unexpected; for example, insurance coverage of a claim is denied or a suit seeking insurance coverage must be filed; (2) seeks to recover or defend against a judgment in excess of \$250,000; (3) seeks an injunction or special writ which, if issued or not issued, will cause the Authority significant harm; (4) raises novel, complex, or unusual issues of law; or (5) requires special legal expertise or experience not possessed by the attorneys

02/17
CW

of the Port Counsel. At the time of entry into this revised Agreement the Authority recognizes that the HRK Bankruptcy matter is significant and complex litigation and the Authority has retained outside counsel to assist the Authority Attorney and represent the Authority in the HRK Bankruptcy litigation. Further the Authority recognizes the complex nature of admiralty and railroad matters and routinely retains outside counsel for admiralty and railroad matters. In addition where claims brought against the Authority are covered by insurance, counsel provided by the insurer will appear, represent and defend the Authority.

Services rendered in overtly threatened litigation for which no initial pleading has yet been filed, shall be deemed General Counsel services under 3A of this Agreement, unless and until the matter is brought to the attention of the Port Director as having potential to lead to significant or complex litigation, and is approved by the ^{Authority}~~Commission~~ in a request for additional compensation as aforesaid. Significant or complex litigation matters shall be limited to those overtly threatened or pending litigation matters that the Manatee County Attorney's Office may refer to outside counsel if, hypothetically, that office were providing the General Counsel services instead of the Firm.

C. Environmental regulatory services will be performed by the Firm at the hourly rate of \$235 for senior attorneys and shareholders and \$185 for associates. Environmental regulatory services require special expertise, are project based, and are dependent upon the Port's particular needs from year to year.

D. Effective January 1, 2013, general lobbying services will be performed as

est
w

follows: For 2013, the legislative lobbying budget will be \$30,000, plus costs, which may be paid in monthly installments of \$5,000, plus costs, with payments beginning February 2013 and ending July 2013. General lobbying services for FY 2014 and 2015 shall also be \$30,000 with the same payment schedule plus costs. Special legislative actions unique to Port Manatee will be pre-approved and budgeted separately as needed.

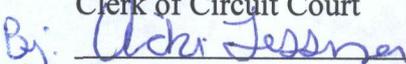
4. DURATION AND TERMINATION. This agreement is effective as of January 1, 2013, and the Firm shall continue to provide legal services until terminated by either party by giving the other party ninety (90) days prior written notice of the termination of this agreement. If termination notice is given, the Firm shall cease rendering all services on the date of termination, and the Authority shall compensate the Firm as provided for in this agreement for all services rendered through the date of termination.

5. ADMINISTRATION. The Authority hereby authorizes the Executive Director of the Authority, or his designee, to administer the terms and provisions of this agreement on behalf of the Authority and to make all managerial decisions on behalf of the Authority as they relate to the provisions of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Port Manatee Legal Services Agreement to be executed in duplicate this the 21st day of March, 2013.

MANATEE COUNTY PORT AUTHORITY

By: 
Chairman

ATTEST: R. B. Shore
Clerk of Circuit Court
By: 

LEWIS, LONGMAN & WALKER, P.A.

By: 
R. Steven Lewis, Esquire

Shareholder

