M E M O R A N D U M

Date: May 28, 2013

TO: Town Commission

FROM: Dave Bullock, Town Manager

SUBJECT: Authorization to Execute Contract with Town Attorney

---

At the May 6, 2013 Regular Meeting, the Town Commission selected Attorney Maggie Mooney-Portale with the firm of Persson and Cohen, P.A., to serve as the Town Attorney. The Town Commission reviewed and commented on a draft Contract at the May 20, 2013 Regular Workshop Meeting.

Attached you will find an updated Contract based on the Commission comments. Modifications were made regarding contract ending date and conflict of interest. Increasing the insurance provision is still under review and Ms. Mooney-Portale will provide an update at the meeting.

Pending Commission direction, staff will work to execute the Contract with Ms. Mooney-Portale.

Please don't hesitate to contact me if you have any questions.

TOWN OF LONGBOAT KEY
LEGAL SERVICES AGREEMENT

The Town of Longboat Key, Florida, with its principal place of business located at 501 Bay Isles Road, Longboat Key, Florida, 34228 (the "Town") and Persson & Cohen, P.A., Attorneys At Law, with a place of business located at 1820 Ringling Boulevard, Sarasota, Florida, 34236 (the "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 2013, the Town received proposals for legal services in response to Request For Proposal (RFP) 12-014. Attorney Maggie Mooney-Portale with the firm of Persson & Cohen, P.A., (the "Firm") was selected by the Town Commission to fill the role of Town Attorney under the terms and conditions set forth in this Agreement which supersedes any prior agreements.

2. PROFESSIONAL LEGAL SERVICES. Attorney Maggie Mooney-Portale and the Firm are designated as the Town's Attorneys pursuant to Article VI of the Charter of the Town, and shall perform all of the professional services customarily associated with being the attorney or general counsel for an incorporated city government, and as set forth in Attachment A - Scope of Services, and other services directed or requested from time to time by the Town.

3. GENERAL COUNSEL COMPENSATION, TERMS, AND CONDITIONS. The Firm will perform all Town Attorney services set forth in Attachment A for a monthly fee of $20,312.50/month, for one year beginning June 1, 2013. Fees for other Attorneys, costs, etc., in effect for the term of this contract are set forth in Attachment B - Fee Schedule. Town Attorney services will also include the monitoring and oversight of litigation brought against the Town in which the Firm attorneys do not enter an appearance as Town Attorney and will include the handling of potential and actual claims for damages.

4. DURATION AND TERMINATION. This agreement is effective as of June 1, 2013, and Attorney Maggie Mooney-Portale 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. On or before June 1, 2014, and each succeeding year thereafter the Town Commission will conduct an evaluation the work of the Attorney and the following may occur:

a. The Town Commission may opt to take no action on this Agreement. If the Town Commission takes no action, this Agreement shall be automatically extended under its terms and conditions for a period of one year for each successive year, with compensation as outlined in Attachment B - Fee Schedule, attached hereto.

b. The Town Commission, at a properly noticed meeting and by majority vote, may opt to decline to extend the Agreement whereupon this Agreement shall expire ninety (90) days from the date of that action and termination notice.

If termination notice is given, the Firm shall cease rendering all services on the date of termination, and the Town shall compensate the Firm as provided for in this Agreement for all services rendered through the date of termination.

c. As a result of the evaluation the Town Commission may specify improvement areas in the Attorney's work and may schedule follow up evaluations during the subsequent year.

d. Notwithstanding the foregoing, the term of this Agreement shall not be extended beyond June 1, 2019. At such time, if the Town Commission desires, the Town Commission may enter into a new negotiated contract with the Attorney or may seek proposals for legal services from other lawyers and/or law firms.

5. ADMINISTRATION. To the extent not in conflict with the Town Commission, the Town hereby authorizes the Town Manager, or designee, to administer the terms and provisions of this agreement on behalf of the Town and to make all administrative decisions on behalf of the Town as they relate to the provisions of this Agreement. All provisions and requirements outlined in Request For Proposal (RFP) 12-014 are incorporated herein by reference.

6. INSURANCE. The Firm shall maintain in full force and effect malpractice insurance coverage in an amount of not less than $2,000,000 per claim and $2,000,000 policy limit aggregate and shall from time to time provide the Town with evidence of such insurance.

7. NOTICES. All notices under this Agreement shall be in writing and shall be provided to the Town at 501 Bay Isles Road, Longboat Key, Florida, 34228, and to the Town Attorney and Firm at 1820 Ringling Boulevard, Sarasota, Florida, 34236. Notices shall be hand delivered or mailed, by certified or registered mail, return receipt requested, to the recipient with sufficient postage to reach the destination. The place where notice is given under this paragraph may be changed from time to time by the party entitled to receive it in the same manner that notice is given. Notice given before a change is not invalidated by the change.

8. CONFLICT OF INTEREST. During the term of this Legal Services Agreement, Attorney Mooney-Portale and the members of the Firm shall observe the requirements regarding conflicts of interest as set forth in Rule 4-1 of the Florida Bar's Rules of Professional Conflict. Neither Attorney Mooney-Portale nor the Firm shall undertake representation of any other clients directly adverse to the Town.

9. SEVERABILITY. If any provision or portion of this Agreement is held to be unconsitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed to be severable and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Town of Longboat Key Legal Services Agreement to be executed in duplicate this ___ day of June, 2013.

WITNESS

_____
Signature

_____
Printed Name

PERSSON & COHEN, P.A.

By: _____
Signature

Maggie Mooney-Portale, Esq.
Printed/Typed Name

Date: _____

ATTEST:

By: _____
Trish Granger, Town Clerk

TOWN OF LONGBOAT KEY, FLORIDA

By: _____
James L. Brown, Mayor

Date: _____

Approved as to form and correctness:

_____
Charles D. (Dan) Bailey, Jr. Esq.

ATTACHMENT A
SCOPE OF SERVICES

1. Retainer Services: The following services shall be performed by the Firm under the monthly retainer:

a. routine general counsel legal services;
b. meetings with Town Manager and staff;
c. travel to/from Town Hall and travel within the Sarasota/Bradenton area;
d. normal costs of copying, postage and telephone;
e. all duties as identified throughout the Longboat Key Code of Ordinances;
f. discussions and telephone conferences with individual Town Commissioners, as required;
g. preparation for and attendance and participation in Commission regular and special meetings, workshops and attorney-client sessions; Code Enforcement Board meetings, Planning and Zoning Board meetings, Zoning Board of Adjustment meetings, Charter Review Board meetings (when scheduled), and other meetings that may be identified to require Town Attorney services;
h. preparation, review, and/or approval of ordinances, resolutions, and contracts in accordance with Article VI of the Town Charter;
i. utility billing issues (liens and lien satisfactions); and
j. monitoring and reporting on the progress of Excluded Services referred out to other outside legal counsel;
k. cost of the following items which shall be absorbed by the Firm:
    - travel to/from Town, travel within Sarasota/Bradenton area;
    - normal copying, postage, and telephone;
    - computer equipment and programs;
    - overhead (paralegal, secretarial, office equipment, office space, storage space, etc.), continuing education, publications, and law books, and online legal research services.

2. Non-retainer Services. The following services may be performed by the Firm for an hourly fee of $235 to the extent they are not of such a nature or level of complexity as to lie outside the Firm's general practice areas, and if so, shall be referred to outside counsel with the consent of the Town Commission as set forth in Article VI Section 2 of the Town Charter:

a. preparation of basic real estate instruments/real estate transactions;
b. environmental law;
c. basic bankruptcy filings;
d. litigation, imminent litigation, or imminent adversarial administrative proceedings as described in Florida Statutes 119.071(1)(d)1;
e. pension law;
f. labor /employment law;
g. bond counsel services; and
h. any other legal matter that might appear to fall into the category of Non-retainer services but which is of such a nature or level of complexity as to lie outside the Firm's general practice areas.

ATTACHMENT B
FEE SCHEDULE

1. Retainer Services: $20,312.50/month

2. Non-Retainer Services: $235/hour

End of Agenda Item