

# FISHBACK DOMINICK

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\* FLORIDA BAR BOARD CERTIFIED IN  
CITY, COUNTY AND LOCAL GOVERNMENT

January 7, 2013

### VIA E-MAIL

Bruce C. Campbell, City Manager  
City of Flagler Beach  
105 2<sup>nd</sup> Street  
Flagler Beach, Florida 32136

**RE: Independent Investigation Special Counsel to City of Flagler Beach  
Retainer Agreement**

Dear Mr. Campbell:

It is my understanding that the City of Flagler Beach, a Florida municipal corporation (the "City") desires to retain firm partner, Daniel W. Langley of Fishback, Dominick, Bennett, Ardaman, Ahlers Langley & Geller LLP (herein "Fishback Dominick" or the "firm") to perform independent investigation special counsel services to investigate allegations concerning various personnel within the City's Fire Department. This letter constitutes the engagement agreement between the City and Fishback Dominick, and this letter outlines the terms of the firm's limited representation and fee schedule for services to the City.

Fishback Dominick and Mr. Langley are being retained for the limited purpose of serving as an independent and impartial investigator to perform investigations and make factual determinations to the City regarding allegations raised concerning City Fire Department personnel about events occurring on or about December 14, 2012. Fishback Dominick and Mr. Langley are not being retained to perform and are not undertaking to perform legal advocacy or employment law services for or on the behalf of the City. Fishback Dominick and Mr. Langley shall have no duty to advocate or support a particular position or to make findings or determinations desired by the City and its elected and appointed officials.

Fishback Dominick's fees are based upon the time spent, including travel time, at the hourly rates in effect for firm attorneys and paralegals that perform the work. Attorney and

paralegal time will be billed in quarter hour increments. Firm time will be billed at the following hourly rates:

Daniel W. Langley	\$275.00/hr.
Associates	\$195.00/hr.
Paralegals	\$125.00/hr.

In performing services, Fishback Dominick agrees that its fees should not to exceed the authorized initial budget of \$10,000.00 without City authorization from either the City Manager or the City Commission. In the event the initial budget of \$10,000.00 is reached and the City does not provide authorization to exceed the budget, then Fishback Dominick may cease further performance of services regardless of the stage of the investigation and whether investigation findings have been completed.

In addition, the City will be responsible for the payment of any court filing fees, expert and consultant fees, and my firm's out-of-pocket disbursements, which shall be paid for upon my request or upon receipt of monthly invoice. Out-of-pocket disbursements include, court reporter fees, legal process services, application fees, filing fees, Lexis-Nexis or other electronic legal research costs, photocopying expense (in firm copies billed at \$0.25 per copy), long distance telephone calls, photography expense, facsimile costs (billed at \$1.00 per page), travel costs, including parking fees, tolls, and mileage at applicable IRS rates, and other similar expenses.

Invoices for fees and out-of-pocket disbursements will be rendered on a monthly basis. Such monthly bills will be due within fifteen (15) days from the date mailed. The City's failure to timely pay invoices shall result in interest accruing in accordance with the Florida Prompt Payment Act.

Further, the City acknowledges and understands that there are no assurances or guarantees, either expressed or implied, with respect to the outcome of any investigation, case or matter, or any particular issue contained in any investigation, case or matter. The City expressly acknowledges that firm's fees for services are NOT contingent on the outcome or results of the above referenced investigation. The firm's fees and costs incurred shall be due and owing regardless of the outcome of the matter(s) for which the firm is retained. The firm does not and cannot guarantee a successful result on any matter.

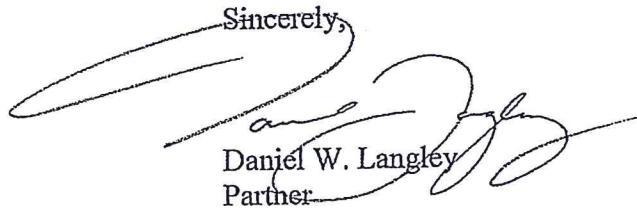
In order to enable the firm to effectively perform its investigatory services, the City will ensure to the best of its abilities that its officials, officers, employees and agents, openly and freely cooperate with, communicate with, and provide requested information and documents to the firm, and keep the firm apprised of all developments relating to each matter for which the firm is involved. The City and its general and employment law counsel, not Fishback Dominick and Mr. Langley, are responsible for compliance with any and all applicable employment and personnel laws, statutes, rules, ordinances, procedures and processes concerning and relating to the investigation and determinations to be conducted or made pursuant to this agreement, and the City holds harmless Fishback Dominick and Mr. Langley from any and all demands, claims and lawsuits relating to or concerning allegations that such laws, statutes, rules, ordinances, procedures and processes were not complied with or followed. The City agrees that the services

provided by Fishback Dominick and Mr. Langley under this agreement are performed as an agent of the City and therefore, the City hereby extends the defense protections afforded by Section 111.07, Florida Statutes to Fishback Dominick and Mr. Langley concerning matters arising from or related to services performed pursuant to this agreement.

In the event my firm's invoices are not timely paid when due, the firm reserves the right to terminate its services. Our services may be terminated by either you or my firm at any time; however, any fees and costs incurred by the firm to the date of termination shall be paid in full. Further, the City shall pay the firm for any services rendered to transition matters to other counsel retained by the City.

Please indicate the City's agreement with the above by executing below and returning a signed copy to me. I look forward to working with you on this matter. Thank you again for retaining my firm's services.

Sincerely,



Daniel W. Langley  
Partner

**City of Flagler Beach, a Florida municipal corporation**

By   
Bruce C. Campbell, City Manager

Date: JAN. 7, 2013

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