

**TAB 4**



# City of Palmetto Agenda Item

**Meeting Date**

April 2, 2012

**Presenter:** Mayor Shirley Groover Bryant

**Department:**

**Title:**

**Background:**

In 2009, the City retained Kirk Pinkerton, and specifically, Mark Barnebey, to serve as City Attorney. Mr. Barnebey and Scott Rudacille, who are both Board Certified in City, County, and Local Government Law, are joining the Blalock Walters law firm.

**Discussion:**

The City needs to terminate its existing agreement with Kirk Pinkerton and retain the Blalock Walters law firm under the same terms as the prior agreement for legal services, which is attached. For certain items, the City Attorney may utilize Kirk Pinkerton to complete ongoing matters.

**Budgeted Amount:**

\$0.00

**Budget Page No(s):**

**Available Amount:**

\$0.00

**Expenditure Amount:**

\$0.00

**Additional Budgetary Information:**

**Funding Source(s):**

**Sufficient Funds Available:**  Yes  No

**Budget Amendment Required:**  Yes  No

**Source:**

**City Attorney Reviewed:**

Yes  
 No  
 N/A

**Advisory Board Recommendation:**

For  
 Against  
 N/A

**Consistent With:**

Yes  
 No  
 N/A

**Potential Motion/ Direction Requested:**

I move to retain the Blalock Walters firm as City Attorney under the same terms as prior agreement with Kirk Pinkerton and terminate the agreement with Kirk Pinkerton, as City Attorney, effective immediately, but allow the City Attorney on as needed basis to retain the service of Kirk Pinkerton as appropriate.

**Staff Contact:**

**Attachments:**



# KIRK & PINKERTON, P.A.

Serving Our Community  
Since 1926

ATTORNEYS AT LAW

JAMES E. KIRK, 1902-1983

JOHN C. PINKERTON, 1916-1997

DONALD C. MCCLELLAND, III, 1922-2003

WILLIAM C. STRODE, RETIRED

ROBERT J. CARR  
 L. NORMAN VAUGHAN BIRCH <sup>CS</sup>  
 TIMOTHY S. SDAY <sup>1</sup>  
 WILLIAM E. ROBERTSON, JR.  
 DAVID M. SILBERSTEIN <sup>COA 1<sup>st</sup></sup>  
 MARK P. BARNFEBY <sup>2</sup>  
 THOMAS D. SHUCIS  
 JULIE A. BOUSKAMP <sup>1</sup>  
 CRAIG P. COLBURN, JR.  
 BRADLEY W. HOGREVE <sup>1</sup>  
 LESLIE W. LOTTUS <sup>00</sup>

SCOTTE RUDACHE  
 SUEA JACOBSON <sup>0</sup>  
 DOUGLAS J. ELAROE  
 ZACHARY L. ROSS  
 JERILYN HUYENDORF  
 REBECCA J. PROCTOR  
 SHARON P. O'BAN

BOARD CERTIFIED IN WILL, TRUSTS  
 AND ESTATES  
 ABOARD CERTIFIED BUSINESS  
 LITIGATION LAW  
 BOARD CERTIFIED REAL ESTATE LAWYER  
 BOARD CERTIFIED PUBLIC DEFENSE ATTORNEY  
 BOARD CERTIFIED TAX ATTORNEY  
 BOARD CERTIFIED IN CIVIL, COUNTY  
 AND LOCAL GOVERNMENT LAW  
 ALSO ADMITTED IN MARYLAND  
 ALSO ADMITTED IN NEW MEXICO  
 ALSO ADMITTED IN COLORADO  
 ALSO ADMITTED IN NEW YORK  
 ALSO ADMITTED IN FLORIDA

PLEASE RESPOND TO BRADENTON OFFICE

October 27, 2010

***Via Hand Delivery***

The Honorable Mayor Shirley Groover Bryant  
 City of Palmetto  
 516 8<sup>th</sup> Avenue W  
 Palmetto, FL 34221

Re: City Attorney to the City of Palmetto

Dear Mayor Bryant:

We want to thank you and the City Commission for reappointing our firm as City Attorney to the City of Palmetto. We look forward to working with you, the City Commission and the City staff to provide any legal services required by the City. Additionally, we will strive to provide proactive lawyering as much as possible to reduce potential litigation.

As you are aware, we have been successful in minimizing the potential for major litigation over the last two years. We have been working on a number of significant issues for the City, including a new Comprehensive Plan, land development code changes, coordination of the Palmetto Ball Field matters and numerous CRA initiatives. We have also worked on a variety of other matters such as the code enforcement and demolition matters, alcoholic beverages, abandoned housing and attainable housing ordinances, and revisions to the Personnel Policy and the sign code. Additionally, we now assist the CRA Advisory Board among other items not originally contemplated by our original agreement.

Our proposed rates represent a slight decrease in the amount paid under the City budget during the last two fiscal years. Because of increased work with the CRA, there is a small increase in the amount of funds contributed by the CRA. It remains below the amount charged by our predecessors in at least the prior five years.

For general representation, the firm will bill the City as follows:

SARASOTA MAILING ADDRESS  
 P.O. BOX 3788  
 SARASOTA, FLORIDA 34236  
 SARASOTA TELEPHONE 941-551-2100  
 SARASOTA FACSIMILE 941-551-2100

PLAZA AT FIVE POINTS  
 50 CENTRAL AVE. SUITE 700  
 SARASOTA, FLORIDA 34236  
 TELEPHONE 941-551-2100  
 FACSIMILE 941-551-2100

1201 66<sup>th</sup> AVE. W., SUITE 400  
 BRADENTON, FLORIDA 34205-7807  
 TELEPHONE 941-711-2288  
 FACSIMILE 941-711-9591

# KIRK PINKERTON, P.A.

The Honorable Mayor Shirley Groover Bryant  
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For the period from November 1, 2010 until the end of the day of the first organizational meeting after the 2012 general election:

The sum of \$18,333.00 per month (\$220,000.00 per year) which shall be paid by the City on a monthly basis, due and payable within 14 days of receipt of such invoice (with the invoice prepared the 16<sup>th</sup> of the month to the 15<sup>th</sup> of the next month) without the need for further invoice.

The general representation for the sums described above will include all attorney and staff time for non-litigation matters, as well as associated costs incurred by the firm except for extraordinary expenses such as filing fees, out-of-County travel, computerized legal research and the like consistent with our RFP.

As we have discussed, our firm has experienced trial attorneys who can handle most litigation matters that may arise. For such matters involving pending and active litigation and administrative proceeding outside of the City's internal administrative processes, the City will be invoiced separately and will be billed at the rate of \$225.00 per hour for shareholders, \$200.00 per hour for all attorneys with at least 3 years of experience, \$175.00 per hour for attorneys with less than 3 years experience, and \$95.00 per hour for clerks and paralegals. When appropriate due to the need for very specialized expertise, we will retain special counsel. Opinion letters to third parties will be negotiated with the Mayor based on the complexity of the issues and risks to the firm. The firm has ongoing matters with the City related to the School Board for which the firm serves as Special Counsel; including the agreements and purchases related to relocating of Palmetto Elementary and matters related to school concurrency. These matters are not adversarial at present, but in the event a conflict arises, we may need to retain outside counsel related to such matters. If at anytime during the term of this agreement, other City Appointed Officers' salaries are increased, then the firm's monthly billing amount and rates will increase an equivalent percentage to the average of any increase to the City Appointed Officers' salaries on or after October 1, 2012.

I will continue to be the attorney principally responsible for representing the City. However, we have attorneys specializing in a wide range of practice areas such as real estate, corporate, and tax law, many of whom are Board Certified, who will be available to assist when needed. Scott Rudacille of our office is also Board Certified in City, County

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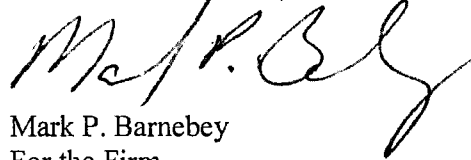
and Local Government Law. Their services are included in the general representation fee discussed herein.

We strive to be open and available to our clients. We will promptly respond to your inquiries, usually within 24 hours unless circumstances prevent it. Our staff is well trained and knowledgeable. Progress information may be obtained from them, but they cannot give legal advice.

If the arrangement for services as set forth above is acceptable, please sign the attached copy of this letter and return it to this office. If you have any questions regarding the foregoing, please do not hesitate to contact me.

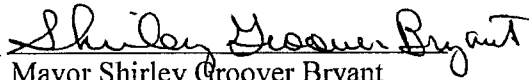
Very truly yours,

KIRK - PINKERTON, P.A.



Mark P. Barnebey  
For the Firm

MPB/lc  
ACCEPTED:

  
Mayor Shirley Groover Bryant  
On behalf of the City of Palmetto