

AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 10/5/2009
FROM: James A. Fowler, Acting City Attorney **AGENDA ITEM:** 10 - C
SUBJECT: Consideration of engaging Labor Attorney Jeff Mandell of Fisher & Phillips, LLP in Orlando to provide such assistance as may be required.

LOCATION:

N/A

BACKGROUND:

As you are aware, the City is presently engaged in negotiations with the IAFF representing the Fire Department bargaining unit for a new collective bargaining contract. The current contract expires September 30, 2009 and negotiations which commenced April, 2009 have been protracted and unproductive to date.

To assist the City's bargaining team and the City's negotiator, Steve Rosenthal, and to prepare to conduct such hearings as may unfortunately result from an impasse, the negotiating team and myself have interviewed five (5) experienced labor attorneys.

It was the consensus of the assemblage that Jeff Mandell of Fisher & Phillips, LLP in Orlando be engaged by the City to provide such assistance as may be required. Mr. Mandell has significant experience with the IAFF and is well versed and experienced with the special magistrate proceeding that typically results from an impasse. He is a former hearing officer for the Public Employee Relations Committee, and he will be assisting the City in the continuing negotiations and related and ancillary matters dealing with the IAFF.

Accordingly the recommendation is to engage Mr. Mandell of Fisher & Phillips, LLP. A copy of the proposed engagement letter for these services is provided as attached.

ORIGINATING DEPARTMENT:

City Attorney's Office

SOURCE OF FUNDS:

General Fund

COST:

Not to exceed \$25,000

REVIEWED BY:

Deputy City Manager, Human Resources Director, City Manager

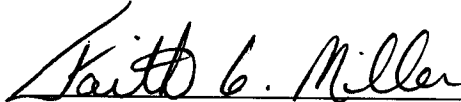
**STAFF
RECOMMENDATION
PRESENTED BY:**

James "Skip" Fowler, Acting City Attorney - That the City engage Labor Attorney Jeff Mandell of Fisher & Phillips, LLP in Orlando to provide such assistance as may be required.

**POTENTIAL
MOTION:**

"I move to approve the engagement of Labor Attorney Jeff Mandell of Fisher & Phillips, LLP in Orlando to provide such assistance as may be required."

**AGENDA ITEM
APPROVED BY:**


Faith G. Miller, City Manager

ATTACHMENTS:

- Fisher & Phillips Engagement Letter

FISHER & PHILLIPS LLP
ATTORNEYS AT LAW

www.laborlawyers.com

Orlando

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September 30, 2009

ATTORNEY-CLIENT COMMUNICATION
PRIVILEGED AND CONFIDENTIAL

James A. "Skip" Fowler, Esquire
Acting City Attorney
City of Deltona
c/o Fowler, O'Quinn, Feeney & Sneed, P.A.
28 West Central Boulevard
Orlando, Florida 32801-2466

Re: *Legal Services – Union Matters*

Dear Skip:

This will confirm that our law firm, Fisher & Phillips LLP, will be retained to represent the City of Deltona in union matters.

Fisher & Phillips LLP is one of the oldest and largest firms in the nation engaged exclusively in the practice of labor and employment law, representing management. It has always been our philosophy to provide efficient, specialized services in the labor and employment area at rates comparable to or below those of our competitors and most general practice firms. We believe that having a reputation for providing high-quality work at reasonable rates is much more beneficial in the long run than charging the maximum going rate for our kind of services.

We have agreed to provide the City legal serves at the hourly rates of \$275 for me and \$220 for my associate. We re-evaluate our hourly rates for attorneys at least annually, and we find that on occasion we must increase them. We will not seek to increase these rates, however, without first seeking the City's approval.

We charge for long distance telephone calls, travel costs, photocopying, courier services, express delivery, facsimile transmissions, computer-aided legal research, and similar items connected with our handling your work. Ordinarily, these amounts will be set forth separately on your billing statement. Please let us know if you have any questions about the way we

James A. "Skip" Fowler, Esquire
Acting City Attorney
City of Deltona
September 30, 2009
Page 2

compute non-fee charges.

Also, sometimes we must incur third-party charges on our client's behalf, such as for process servers, court reporters, interpreters or translators, outside printing or copying, expert witnesses or consultants, and the like. Our policy is to forward all invoices from third-party vendors to our client for direct payment. The City agrees to pay these invoices no later than 30 days following your receipt of them, and acknowledge that its failure to pay any such invoice will constitute a default of this agreement.

Our practice is to send bills on a monthly basis. Our statements generally cover fees and expenses incurred through the end of the prior month, although sometimes fee totals or charges might not be immediately available for one reason or another and will therefore be billed later. This is particularly true at the end of a case. We expect our statements to be paid within 30 days of receipt. If the City ever has a question about an invoice, it should contact us promptly to discuss it.

If for any reason the City finds itself unable to pay a statement within 30 days after receipt, please call us promptly so that we can discuss it. We do reserve the right to impose interest charges at 1½% per month in connection with any balance that remains unpaid more than 30 days after the statement date, and we may withdraw from our representation of the City in the event any statement remains unpaid for more than 60 days. Also, if it ever should be necessary for us to resort to legal action to collect our fees and expenses, it is agreed that the prevailing party shall recover its reasonable attorney's fees and costs in connection with any such action.

We will bill the City for the time we spend working on its legal matters. It is important that the City understands that while we will always seek the most expeditious and economical resolution to the various legal problems we handle on its behalf, we cannot guarantee any specific result. Particularly where litigation and other contested matters are involved, there are many variables that determine whether a particular party will prevail. Unless we specifically enter into a separate express contingency fee arrangement with the City on a specific matter, our fees are not based on contingencies and are due and payable regardless of the outcome of the matter at issue.

We reserve the right to stop performing services and to withdraw from the City's representation if it fail to cooperate with us or follow our advice, if we determine that the City has made material misrepresentations to us, or if the City fails to pay our fees or expenses incurred on its behalf. The City agrees that we may withdraw from the representation under these circumstances, subject to court approval where that is required.

James A. "Skip" Fowler, Esquire
Acting City Attorney
City of Deltona
September 30, 2009
Page 3

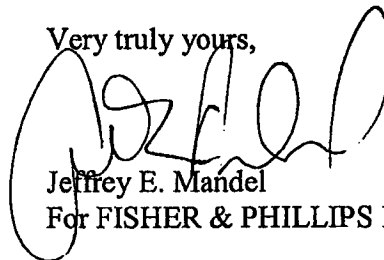
Clients and attorneys must communicate effectively with one another to exchange information and to discuss developments and possible courses of action. We will keep the City informed as developments occur and will consult with the City as to the appropriate steps to take. We also ask that the City keep us informed of its objectives and wishes and that, if we ask for specific information or for instructions necessary to adequately carry out our representation, the City will respond accurately, completely, and as quickly as possible.

The codes of professional responsibility applicable to attorneys in some states require that law firms advise clients whether the firms have errors-and-omissions insurance coverage. Fisher & Phillips LLP does have such coverage.

We look forward to working with the City, and are grateful that we have been selected to provide legal services to the City. We regret the length of this letter, but as we noted at the outset, we take our professional responsibilities seriously and want to comply scrupulously with all ethical requirements. We also want to set forth herein all material terms of our agreement with the City. If these terms are acceptable, please have this letter signed by the appropriate official in the space provided below indicating the City's consent.

If you have any questions, please call. Once again, we appreciate the opportunity to work with the City, and we will always strive to maintain its confidence and trust.

Very truly yours,



Jeffrey E. Mandel
For FISHER & PHILLIPS LLP

Accepted by:

CITY OF DELTONA

By: _____
Its: _____

Date