

Law Office of Theodore W. Small, P.A.

Mail: P.O. Box 172, DeLand, FL 32721

Ted W. Small Esq.

Direct: (386) 740-0788

tsmall@businessemploymentlawyer.com

Date of Initial Conference _____ September ____, 2024_____

Client's Name _____ City of Fort Pierce, Florida _____

Client's Address _____ 100 North, U.S. Highway 1, Room 101, Fort Pierce FL 34950 _____

Initial Scope of Representation: Conduct an independent investigation into the alleged actions that led to the criminal arrest of Mr. Nicholas Mimms, City Manager, on August 14, 2024, and report findings and recommendations to the City Commission as it relates to Mr. Mimms's conduct. The investigation shall evaluate whether Mr. Mimms or other City employees in any way violated the City's Personnel Rules and Regulations or his employment contract.

The City of Fort Pierce, Florida ("The City"), by its duly authorized representative, does hereby retain the Law Office of Theodore W. Small, P.A. ("The Law Office") as its attorney to counsel it in connection with the above matter. It is understood and agreed that The City employs said attorney, and he accepts employment as its attorney, upon the following specific terms and conditions along with the Standard Terms of Engagement (attached):

1. Receipt from the City of an initial retainer in the amount of \$0.00 based upon reliance upon the City's expected compliance with Chapter 218,73, Florida Statutes. The first \$0.00 of this initial retainer is NON-REFUNDABLE and shall be applied toward the expense of opening and maintaining your file. The remainder of this retainer will be deposited in our trust account and held until the conclusion of this matter and applied against your final bill (similar to how deposits are held in a leasing context). If it is determined that it is necessary based on payment history or because of an expansion of the Initial Scope of Representation, the Law Office may require you to deposit an additional retainer in an amount that is appropriate to cover two months of work on the proposed representation.
2. Payment by me of a reasonable attorney's fee based upon the time involved at the discounted hourly rate for Ted W. Small, Esq. of \$330.00 (billable in 15-minute increments), including time for traveling portal to

portal from the Law Office to other locations in and around the City of Fort Pierce. All reasonable effort will be made to schedule witness interviews and other such onsite investigation within the City of Fort Pierce area so that no more than three such trips are necessary. The Law Office estimates, but cannot guarantee, that legal fees will be in the range of \$20,000.00 to \$40,000.00 monthly for the Scope of Representation described above. It is impossible to determine in advance the amount of time that will be needed to complete your case, but I will consult with you and obtain your authorization before our fees exceed this maximum estimate.

3. Payment by me of all out-of-pocket costs incurred, such as copying, mailing, courier fees, court reporting, travel costs including a per diem of \$125.00, etc. These shall be billed as incurred and shall be paid by me within thirty (30) days. A cost deposit of \$ 0.00 shall be paid by me immediately and applied to these expenses. Any portion of the cost deposit not expended on costs will be applied to outstanding attorney's fees or will be refunded to me, if no fees are outstanding.
4. The Law Office will bill you on a monthly basis and payment is due upon receipt of our statement. Please make your checks payable to Law Office of Theodore W. Small, P.A., PO Box 172, DeLand, FL 32721. All unpaid bills shall bear interest at the rate of rate of 1.00 percent per month (12% annually) after thirty (30) days.
5. If bills are unpaid and a mutually agreeable payment schedule is not made and adhered to, The City agrees to bear the cost of collection, including a reasonable attorneys' fee and court costs. Any enforcement action on our agreement shall be governed by Florida law and venue proper in St. Lucie County, Florida.
6. The Law Office shall have the right to withdraw from the case if the City does not make payments required by this Agreement, if The City has misrepresented or failed to disclose material facts to its attorney or if The City fails to follow its attorney's advice. In any of these events, The City will execute such necessary documents as will permit the Law Office to withdraw.
7. The Law Office shall have a lien on all of the City's documents, property, or money in the Law Office's possession for the payment of all sums due to the Law Office from the City under the terms of this Agreement.
8. The City agrees to cooperate with its attorney, to make itself available for conferences on reasonable notice, and to keep its attorney fully informed of all matters relating to the case and of all address and telephone number changes. Currently, the Law Office of Theodore W. Small, P.A. consists of one practicing attorney and support staffing. If additional legal staff were to join this firm or co-counsel on this matter, the City agrees that such other legal staff may work on your matter and have access to your confidential communications and documents.

9. In the event payment of all or part of the reasonable attorney's fee or costs is made by the adverse party pursuant to agreement or court Order, such payment shall be credited to any outstanding amount due and the balance shall be reimbursed to me.
10. The City acknowledges that its attorney has made no guarantees in the disposition of any phase of the matter or matters for which the Law Office has been retained; as all expressions relative to its case are only the attorney's professional opinions. The City will not rely on its attorney for business, investment, or accounting decisions, or expect us to investigate the character or credit of persons or entities with whom you may be dealing, unless otherwise specified.
11. To the extent that The Law Office meets the definition of "contractor" under section 119.0701, Florida Statutes, and in addition to other contract requirements, The Law Office agrees that it will comply with Florida's Public Records Laws. Specifically, The Law Office agrees that it will:
 - a. Keep and maintain public records that would be required by The City to perform the serves to include the Law Office's retainer agreement, investigative reports, recorded interviews and transcripts and documents and records prepared by the Law Office to preserve knowledge concerning the investigation;
 - b. Provide the public with access to such public records on request from The City's custodian of public records;
 - c. Provide The City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;
 - d. Ensure the public records that are exempt or confidential and exempt from public records disclosure requirements are not except as authorized by law for the duration of the contract term and following completion of the contract if The Law Firm does not transfer the records to the public agency;
 - e. Upon completion of the Agreement, transfer, at no cost, to The City all public records in possession of The Law Firm or keep and maintain public records required by the public agency to perform the service. If The Law Firm transfers all public records to The City upon completion of the Agreement, The Law Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If The Law Firm keeps and maintains public records upon completion of the Agreement, The Law Firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to The City upon request from The City's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE LAW FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LAW FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 772-467-3065, LCOX@CITYOFFORTPIERCE.COM, 100 NORTH US HIGHWAY 1, FORT PIERCE, FL 34950.

12. Nothing in this Agreement should be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement, or to confer any rights on any third party.
13. Nothing in this Agreement is intended to waive sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable, or of any rights or limits of liability existing under section 768.28, Florida Statutes. This term survives the termination of all performance or obligations under this Agreement and is fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.

Dated at St. Lucie County, Florida, on this ___ day of September, 2024.

Sara Hedges, City Attorney
City of Fort Pierce, Florida

I HEREBY ACCEPT employment upon the terms and conditions as set forth above.

The Law Office of Theodore W. Small, P.A.

Theodore W. Small, Esq.

STANDARD TERMS OF ENGAGEMENT
for the Law Office of Theodore W. Small, P.A.

We appreciate your decision to retain Law Office of Theodore W. Small, P.A. as your legal counsel. This document explains how we work, our obligations to you, your obligations to us, what we will do on your behalf, and how our charges will be determined and billed. Experience has shown that an understanding of these matters will contribute to a better relationship between us, and that in turn makes our efforts more productive.

Our engagement and the services that we will provide to you are limited to the matter identified in the accompanying letter. Any changes in the scope of our representation as described in the letter must be approved in writing. We will provide services of a strictly legal nature related to the matters described in that letter. You will provide us with the factual information and materials we require to perform the services identified in the letter, and you will make such business or technical decisions and determinations as are appropriate. You will not rely on us for business, investment, or accounting decisions, or expect us to investigate the character or credit of persons or entities with whom you may be dealing, unless otherwise specified in the letter.

Confidentiality and Related Matters

Notwithstanding the below, all public records laws will be followed, pursuant to the Agreement and all findings will be reported to the Client in a Sunshine meeting. Further, all rules, laws, and regulations applicable to a “contractor” to a public entity as defined under section 119.0701, Florida Statutes, shall be followed.

Regarding the ethics of our profession that will govern our representation, several points deserve emphasis. As a matter of professional responsibility, we are required to preserve the confidences and secrets of our clients. This professional obligation and the legal privilege for attorney-client communications exist to encourage candid and complete communication between a client and his lawyer. We can perform truly beneficial services for a client only if we are aware of all information that might be relevant to our representation. Consequently, we trust that our attorney-client relationship with you will be based on mutual confidence and unrestrained communication that will facilitate our proper representation of you. Additionally, you should be aware that, in instances in which we represent a corporation or other entity, our client relationship is with the entity and not with its individual executives, shareholders, directors, partners, or persons in similar positions, or with its parent, subsidiaries, or other affiliates. In those cases, our professional responsibilities are owed only to that entity alone, and no conflict of interest will be asserted by you because we represent persons regarding interests that are adverse to individual persons or business organizations that have a relationship with you. Of course, we can also represent individual executives, shareholders, partners, and other persons related to the entity in matters that do not conflict with the interests of the entity, but any such representation will be the subject of a separate engagement letter. Similarly, when we represent a party on an insured claim, we represent the insured, not the insurer, even though we may be approved, selected, or paid by the insurer. Relationships with Other Clients

Because we are a small law office located in a small city we may be (and often are) asked to represent a client with respect to interests that are adverse to those of another client who is represented by the firm in connection with another matter. Just as you would not wish to be prevented in an appropriate situation from retaining a law firm that competes with Law Office of Theodore W. Small, P.A., our firm wishes to be able to consider the representation of other persons who may be competitors in your industry or who may have interests that are potentially adverse to yours, but with respect to matters that are unrelated in any way to our representation of you. The ethics that govern us permit us to accept such multiple representations, assuming certain requirements are met.

During the term of this engagement, we agree that we will not accept representation of another client to pursue interests that are directly adverse to your interests unless and until we make full disclosure to you of all the relevant facts, circumstances, and implications of our undertaking the two representations, and confirm to you in good faith that we have done so and that the following criteria are met: (i) there is no substantial relationship between any matter in which we are representing or have represented you and the matter for the other client; (ii) any confidential information that we have received from you will not be available to the lawyers and other Law Office of Theodore W. Small, P.A. personnel involved in the representation of the other client; (iii) our effective representation of you and the discharge of our professional responsibilities to you will not be prejudiced by our

representation of the other client; and (iv) the other client has also consented in writing based on our full disclosure of the relevant facts, circumstances, and implications of our undertaking the two representations. If the foregoing conditions are satisfied, you agree that we may undertake the adverse representation and that all conflict issues will be deemed to have been resolved or waived by you.

By making this agreement, we are establishing the criteria that will govern the exercise of your right under applicable ethical rules to object to our representation of another client whose interests are adverse to yours. If you contest in good faith the facts underlying our confirmation to you that the specified criteria have been met, then we will have the burden of reasonably supporting those facts.

Questions About Our Bills.

We invite you to discuss freely with us any questions that you have concerning a fee charged for any matter. We want our clients to be satisfied with both the quality of our services and the reasonableness of the fees that we charge for those services. We will attempt to provide as much billing information as you require and in such customary form that you desire, and are willing to discuss with you any of the various billing formats we have available that best suits your needs.

Termination

Upon completion of the matter to which this representation applies, or upon earlier termination of our relationship, the attorney-client relationship will end unless you and we have expressly agreed to a continuation with respect to other matters. We hope, of course, that such a continuation will be the case. The representation is terminable at will by either of us. The termination of the representation will not terminate your obligation to pay fees and expenses incurred prior to the termination. Upon withdrawal or closing of this matter, if you provided me with any original documents and want them returned, please contact us to arrange a mutually convenient time for their pick up. Otherwise, we will destroy those documents in accordance with the Law Office's retention policy.

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Your agreement to this engagement constitutes your acceptance of the foregoing terms and conditions. If any of them is unacceptable to you, please advise us now so that we can resolve any differences and proceed with a clear, complete, and consistent understanding of our relationship.

