

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: November 6, 2007 ☒ Consent ☐ Regular
 ☐ Workshop ☐ Public Hearing

Department _____

Submitted by: FIRE RESCUE

I. EXECUTIVE BRIEF

Motion and Title:

Staff recommends motion to approve the Second Amendment to the Agreement for Labor Negotiation Services with Ogletree, Deakins, Nash, Smoak, & Stewart, P.C. (R2003-1570), effective retroactively from October 1, 2007 for an additional six (6) month period in an amount not to exceed \$41,000. This represents \$40,000 for fees and \$1,000 for expenses.

Summary:

This Second Amendment permits the firm to continue to provide expert advice and assistance in the area of collective bargaining negotiations and David DeMaio to act as the County's chief negotiator in ongoing disability benefits negotiations with the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. Countywide (SGB)

Background and Justification:

The firm was initially selected in a competitive selection process among twelve firms who responded to a Request for Proposals for Labor and Employment Outside Legal Counsel. The County entered into a contract with the firm and began utilizing its services primarily for Fire-Rescue issues. Fire Rescue desired to utilize the firm as the County's chief negotiator in the collective bargaining negotiations with Local 2928. Because these services are separate from the purely legal services anticipated in the original contract, the parties entered into a separate agreement for the provision of labor negotiation services. The current Agreement expired on September 30, 2007. This Second Amendment permits the firm to continue to provide expert advice and assistance in the area of collective bargaining negotiations and David DeMaio to act as the County's chief negotiator.

Attachments:

Agreement for Labor Negotiation Services

Recommended By: R. R. Clement Deputy Chief Date 10/15/07

Approved By: Herman Price Fire-Rescue Administrator Date 10-15-07

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

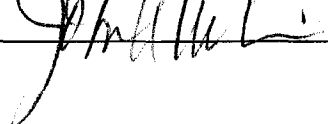
		<u>Millions</u>			
Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>41,000</u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
 NET FISCAL IMPACT	 <u>41,000</u>	 _____	 _____	 _____	 _____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____

Budget Account No.: Fund 1300 Dept 440 Unit 4215 Object 3401

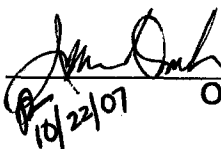
B. Recommended Sources of Funds/Summary of Fiscal Impact:

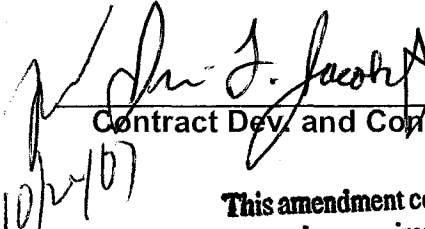
The FY2008 Fire-Rescue budget includes \$50,000 for labor attorney costs.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS


A. OFMB Fiscal and/or Contract Dev. and Control Comments:


10/22/07
 OFMB
10/23/07


10/24/07
 Contract Dev. and Control

B. Legal Sufficiency:

This amendment complies with our review requirements.

 10-25-07
 Assistant County Attorney

C. Other Department Review:

 Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

**SECOND AMENDMENT TO AGREEMENT BETWEEN PALM BEACH COUNTY
AND OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. FOR LABOR
NEGOTIATION SERVICES**

THIS SECOND AMENDMENT is made and entered into this _____ day of _____, 2007, by and between the **BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "COUNTY") and **OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.** (hereinafter referred to as "ATTORNEY").

WHEREAS, the COUNTY and Whelan, Demaio & Kiszkiel, P.A. (hereinafter "WDK") entered into an Agreement dated September 23, 2003, for professional services in the area of labor negotiations and related services (hereinafter the "Agreement"); and

WHEREAS, effective January 1, 2004, WDK merged into the firm Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and Ogletree, Deakins, Nash, Smoak & Stewart, P.C. assumed WDK's duties, obligations and rights under the Agreement; and

WHEREAS, the parties entered into a First Amendment to the Agreement, which extended the Agreement until September 30, 2007; and

WHEREAS, the ATTORNEY has acted as the COUNTY'S chief negotiator in on-going collective bargaining negotiations on disability benefits, and has provided expert advice and assistance to the COUNTY in this complex area; and

WHEREAS, the parties desire to renew the Agreement for an additional six month period to allow the ATTORNEY to continue to represent the COUNTY in the collective bargaining negotiations on disability benefits.

NOW THEREFORE, in consideration of the mutual representations, terms and covenants expressed herein, the parties agree as follows:

1. The Agreement is hereby renewed for an additional six month period to expire on March 31, 2008.
2. During this six month renewal period, the COUNTY agrees to pay the ATTORNEY for the NEGOTIATION SERVICES, as defined in the Agreement, rendered at COUNTY's request on a per hour basis at the hourly rate(s) set forth in Exhibit A to this Second Amendment, in a total amount not to exceed Forty Thousand Dollars (\$40,000).
3. During this six month renewal period, the total amount of reimbursable expenses and costs, excluding expert witness fees, shall not exceed One Thousand Dollars (\$1,000).
4. Section 15 of the Agreement is hereby amended to read as follows:

"15. All written notices required in this Agreement shall be sent by certified mail, return receipt requested. If sent to the COUNTY, the notice shall be mailed to:

PALM BEACH COUNTY FIRE-RESCUE ADMINISTRATOR
50 South Military Trail, Suite 101
West Palm Beach, FL 33415

with a copy to:

PALM BEACH COUNTY ATTORNEY
301 North Olive Avenue, Suite #601
West Palm Beach, FL 33401

If sent to the ATTORNEY, the notice shall be mailed to:

DAVID DEMAIO, ESQ.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

701 Brickell Avenue

Suite 2020

Miami, Florida 33131"

5. The County's performance and obligation to pay under the Agreement and the First and Second Amendments is contingent upon an annual appropriation for its purpose by the Board of County Commissioners.
6. This Second Amendment shall take effect on October 1, 2007.
7. Except as specifically modified herein, all terms and provisions of the Agreement and First Amendment are hereby renewed, confirmed, continued, and shall remain in full force and effect during the renewal period; provided, however, that in the event of any conflict, inconsistency, or incongruity between the provisions of this Second Amendment and the Agreement or First Amendment, then this Second Amendment shall control.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have duly executed this
Second Amendment on the day and year first above written.

ATTEST:
SHARON R. BOCK,
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

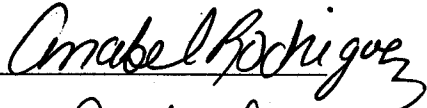
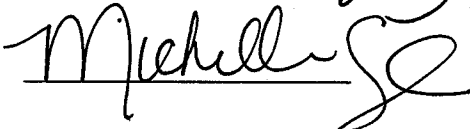
APPROVED AS TO TERMS
AND CONDITIONS

By: _____
County Attorney

By: 
Fire-Rescue

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

WITNESSES

By: 
By: 

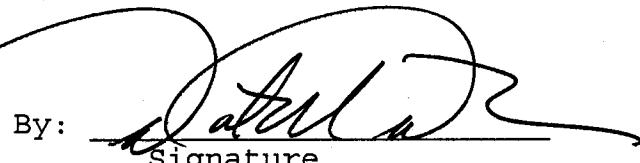
By: 
Signature
David M. DeMaio
Type or Print Name
Shareholder
Title

EXHIBIT A

First to Fourth year Associates:	\$195 per hour
Fifth Year Associates and up:	\$210 per hour
Of Counsel:	\$210 per hour
Partners/Shareholders:	\$225 per hour

Total maximum amount to be paid by County to ATTORNEY for the negotiation services provided herein: \$40,000

Total maximum amount to be paid by County to ATTORNEY for costs, excluding expert witness fees: \$1,000