

**VILLAGE OF EL PORTAL, FLORIDA
VILLAGE ATTORNEY ENGAGEMENT AGREEMENT**

THIS VILLAGE ATTORNEY ENGAGEMENT AGREEMENT (“Agreement”) is made and entered into as of its Effective Date, by and between the Village of El Portal , Florida, a Florida municipal corporation located in Miami-Dade County, Florida, whose address is 500 N.E. 87th Street, El Portal, Florida 33138 (the “Village”) and Norman C. Powell d/b/a Law Offices of Norman C. Powell, whose address is 1666 J. F. Kennedy Causeway, Suite 420, North Bay Village, Florida 33141 (“Attorney”). This Agreement shall explain the nature and scope of the legal services the Attorney has agreed to perform for the Village, the fees for those services, the manner in which the fees and costs are determined, termination, and payment terms.

WHEREAS, on March 5, 2018, the El Portal Village Council (“Council”) appointed the Attorney the Interim Village Attorney at its regularly scheduled Council Meeting; and

WHEREAS, all references to the Council shall mean the collegial body of the Village of El Portal Council, unless otherwise stated herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and Attorney agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by this reference.

2. **Appointment and retainer.** The Attorney is hereby retained and appointed as the Interim Village Attorney.

3. **Nature of General Services.** The Municipality of the Village of El Portal engages the Attorney to provide, including, without limitation by enumeration, the following services (herein after “Municipal Legal Services”):

3.1. Village Council and Committee Meetings.

- a. Attend and provide legal counsel at all regular and special meetings and workshops of the Council;
- b. Attend and represent the Village at all code enforcement hearings which require attorney representation; and
- c. Attend and provide legal counsel at meetings of other Boards of the Village that require attorney representation.

3.2. General Legal Representation. The Attorney shall perform all general legal representation for the Village as required. Such general legal representation includes, but is not limited to:

- a. Legislative work associated with the Council meetings, including preparation or review of ordinances and resolutions, and written policies and procedures, together with research work as necessary associated with the preparation of those documents. This activity shall include providing assessments of legal risks inherent in any proposed course of action, present legislation, or practices of the Village;
- b. Preparation of oral or written opinions on legal matters as required by the Council and/or Village Manager;
- c. Negotiations and preparation of agreements, leases, contracts, or similar documents;
- d. Review and advice regarding contract form(s) between the Village and independent contractors;
- e. Participation in meetings and/or telephone conferences with the Village Manager and/or Village Staff as designated by the Village Manager and the provision of legal counsel, as required;
- f. Assistance to staff, legal research, and counseling related to the acquisition or sale of real property, preparation of leases, deeds and easements; utility franchise agreements; operations governed by law; liability situations; grant guidelines; pension law, and other matters as necessary requiring legal advice;
- g. Maintenance of legal files and pleadings and orders in all litigation the Attorney is handling for the Village. On a monthly basis, if requested by the Village Manager or Council, the Attorney will provide a written report on the status of all litigation that the Attorney is directly handling or is overseeing on behalf of the Village;
- h. Keeping the Village Council, Village Manager and Village department heads informed of legislation and/or judicial opinions that have potential to impact the Village;
- i. As requested by the Village, overseeing, in a cost-effective manner, litigation in which the Village is represented by the Village's insurer;
- j. Conducting legal research as required in the performance of duties to the Village;
- k. Providing legal services for such other matters not covered above, but which necessitate legal advice or use of legal services of the Attorney, as

determined by the Village Council or Village Manager and Village department heads; and

1. Serve as liaison with independent counsel when required.

4. **Fees for Services.** The Attorney's regular rate is Three Hundred Seventy Five (\$375.00) per hour. However, the Village will be charged and agrees to pay for the Attorney's provision of the Municipal Legal Services on a Flat Fee per month basis starting on March 5, 2018, the sum of Eight Thousand Dollars (\$8,000.00). It is understood and agreed that the Municipal Legal Services will be provided without regard for the amount of time required to perform them, and that the set fee agreed to in this Paragraph 4 is unrelated to how much or how little time is expended by the Attorney in providing the Municipal Legal Services.

4.1. **Additional Legal Services.** The Attorney is authorized to provide additional legal services to the Village beyond the scope of the general Municipal Legal Services stated in Paragraph 3 of this Agreement. The Attorney will use his best judgment in determining whether it is in the best interest of the Village for him or for outside counsel to provide legal services in each particular instance. When the Attorney provides additional legal services for the Village, the firm will charge for professional services on an hourly basis and will itemize its professional fees in one-tenth (1/10) hourly increments as follows: \$200 per hour for all additional services, except federal litigation which shall be charged at \$250 per hours.

4.2. **Costs.** Certain expenses may be incurred and advanced on the Village's behalf with the Attorney expressly acting as the Village's agent. The Village agrees to pay these expenses, which may include, by way of example but not limited to, third party copy charges, bond or surety and insurance, court filing fees, deposition transcripts travel and lodging expenses, delivery charges, photocopies and postage. Wherever possible, the Attorney will receive authorization from the Village before incurring costs greater than \$500. The Village will also be responsible for all government imposed taxes on fees and costs.

5. **Payment Of Fees And Costs.** The Village will be billed by the Attorney on a monthly basis for the time spent on a matter and for expenses incurred on the Village's behalf. The Village will pay each statement in accordance with the Local Government Prompt Payment Act, Chapter 218, Florida Statutes.

5.1. Unless the Attorney reaches another agreement with the Village in writing regarding payment of fees and costs, the Village understands that non-payment of any invoice for fees and costs which is rendered in accordance with the terms of this Agreement will constitute a default by the Village and the Attorney may, in its sole and absolute discretion (subject to court approval, if necessary), cease to provide further legal services to the Village.

5.2. The Village will be liable to the Attorney for payment of any fees earned and any costs incurred to that time. The Village further agrees that the Attorney shall have the right to withdraw from representing the Village if the client does not make payments required by this Agreement. In such event, the Village agrees to execute such documents as will permit the Attorney to withdraw.

6. **Effective Date; Termination and Release.** The effective date of this Agreement is March 5, 2018. This Agreement shall continue in force month to month. The Attorney may terminate this Agreement by giving the Village 30 days' written notice. The Village may terminate this Agreement, in its sole discretion, upon the affirmative vote of no less than three of the duly elected or appointed members of the Council and the notice of termination must be scheduled at a regularly scheduled Council meeting and advertised in the Council agenda prior to the Council meeting. Upon termination of this Agreement, the Attorney will transfer all work in progress, completed work, and other materials to the Village's successor counsel. If this Agreement is terminated by the Village, the Attorney shall be entitled to reimbursement of all reimbursable costs advanced and all fees for services until such termination.

7. **Attorney to Be Independent Contractor.** The Attorney and Attorney's employees and agents are independent contractors, and not employees, agents or servants of the Village. All persons engaged in any work or services performed pursuant to this Agreement, shall at all times, and in all places be subject to the Attorney's sole discretion, supervision, and control.

8. **Village Not Liable For Acts Of Attorney.** The Village shall not be liable for the acts, omissions to act, or negligence of Attorney or the Attorney's agents, servants and employees. Attorney shall maintain during the term of this contract, and all renewals and extensions thereof, professional liability insurance in at least the minimum amounts of One Million Dollars (\$1,000,000.00) for each occurrence with a maximum deductible of Fifty Thousand Dollars (\$50,000.00).

9. **Compliance With Applicable Laws.** Attorney shall comply with all Federal, State and local laws and ordinances applicable to the work, and shall not discriminate on the grounds of race, color, religion, sex, disability or national origin in the performance of services to the Village.

10. **Public Records.** The Village and all of its activities, unless exempt, are subject to the Public Records Law (Chapter 119, Florida Statutes) and Sunshine Law (Section 286.011, Florida Statutes). Therefore, the Attorney will agree to observe and comply with those laws as they relate to the Village's policies and procedure.

11. **Representation of Other Clients.** The Attorney is bound by the rules of ethics not to represent any client if the representation of that client will be directly adverse to the interests of another client unless such client consents to such representation after consultation. Attorney represents that he presently has no interest and shall not acquire any interest, either direct or indirect, which would affect in any manner with the performance of legal services, as provided in the standards set forth in Part III of Chapter 112, Florida Statutes. Attorney will promptly notify the Village, in writing, of all potential conflicts of interest, which may influence or appear to influence our judgment or quality of legal services. The Village will notify the Attorney within thirty (30) days of receipt of notification, if in the Village's opinion; the conflict would or would not be deemed a conflict of interest with respect to the Attorney's legal services.

12. **Miscellaneous.** This Agreement may not be modified except by written agreement executed with the same formalities as this contract. Once executed, a photocopy of this contract shall have the same force and effect as the original. Paragraph headings are for convenience only, and are not intended to expand or restrict the scope or substance of the provisions of this agreement. Whenever used herein, the singular shall include the plural, the plural shall include the singular, and pronouns shall be read as masculine, feminine or neuter as the context requires. This contract is made in the State of Florida, and shall be governed by Florida law. Miami-Dade County, Florida, shall be the exclusive venue for any litigation, arbitration or mediation relating to this contract. This contract may not be assigned or delegated by either party without the prior written consent of the other party. This contract shall not be construed to create legally enforceable rights in any persons or entities other than the Attorney and the Village,

13. **Commencement of Representation.** Upon the Village Council's approval, the Attorney will serve as the Village Attorney providing Municipal Legal Services pursuant to the terms and conditions set for the above.

LAW OFFICES OF NORMAN C. POWELL

By: _____
Norman C. Powell

Dated: _____

VILLAGE OF EL PORTAL

By:  _____
Claudia V. Cubillos, Mayor

Dated: march 27, 2018

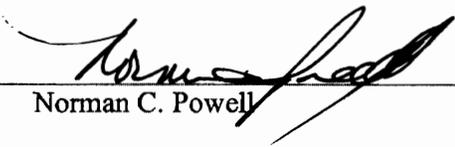
Attest: Yenise Jacobi
Yenise Jacobi, Village Clerk

Dated: march 27, 2018

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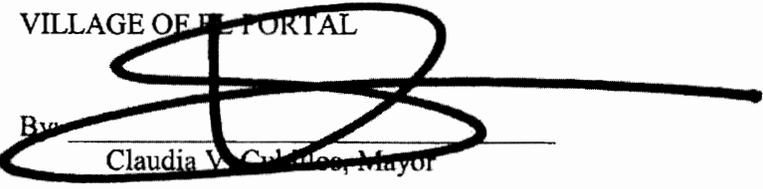
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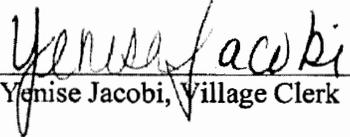
By: 
Norman C. Powell

Dated: March 27, 2018

VILLAGE OF PORTAL

By: 
Claudia V. Ceballos, Mayor

Dated: march 27, 2018

Attest: 
Yenise Jacobi, Village Clerk

Dated: march 27, 2018