

RESOLUTION NO. 2025-03

**A RESOLUTION OF THE CITY OF DELTONA, FLORIDA;
AUTHORIZING PARTICIPATION IN THE LITIGATION
STYLED DELTONA RETAIL HOLDINGS, LLC, ET. AL. V.
CITY OF DELTONA; AUTHORIZING REPRESENTATION
THROUGH CITY ATTORNEY'S OFFICE AND OUTSIDE
LEGAL COUNSEL; PROVIDING FOR IMPLEMENTATION,
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, a dispute has arisen involving an inverse condemnation claim against the City of Deltona by Deltona Retail Holdings, Inc. (the "Dispute"); and

WHEREAS, the Dispute has resulted in filing of litigation in Florida's 7th Judicial Circuit in and for Volusia County, styled as *Deltona Retail Holdings, LLC, et al., v. City of Deltona* and identified by Case Number 2024-12573-CIDL (the "Litigation"); and

WHEREAS, at the time of the Dispute, the City's insurance carrier was PCGS (the "Carrier"); and

WHEREAS, a claim was filed with the Carrier; and

WHEREAS, the claim was assigned insurance defense counsel with Mr. Dale Scott through the firm Roper, Townsend & Sutphen; and

WHEREAS, the claim was subsequently denied coverage by the Carrier and as a result the City must maintain its own defense in the Litigation; and

WHEREAS, Mr. Scott has since left Roper, Townsend & Sutphen for the firm Tessitore Mari Scott, PLLC; and

WHEREAS, it is in the City's best interest for Mr. Scott to continue representing the City in this matter due to the complex nature of the facts and law involved in the Litigation; and

WHEREAS, the City Commission desires to engage Mr. Scott through the firm Tessitore Mari Scott as Outside Counsel to represent City in the Litigation in accordance with the terms of the proposal attached hereto as "Exhibit A"; and

WHEREAS, the City Commission also desires to authorize the City Attorney, TG Law, PLLC ("TG Law"), to represent the City in the Litigation and supervise the City's Outside Counsel in accordance with the terms of TG Law's contract dated November 2, 2024.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE
CITY OF DELTONA, FLORIDA:**

Section 1. Recitals Adopted. That each of the above recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Litigation Authorized. That participation in the Litigation is authorized hereby authorized.

Section 3. Representation Authorized. That Tessitore Mari Scott, PLLC and TG Law, PPLC are each duly authorized to represent the City of Deltona pursuant to their respective Proposals and Contracts.

Section 4. Implementation. That the City Manager or his designee is hereby authorized to take any action which is necessary to implement this Resolution.

Section 5. Effective Date. That this Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
DELTONA, FLORIDA, THIS _____ DAY OF _____, 2025.**

BY: _____

Santiago Avila, Jr., MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

TG Law, PLLC, CITY ATTORNEY

EXHIBIT A

1485 International Parkway
Suite 2031
Lake Mary, FL 32746

TESSITORE MARI SCOTT, PLLC

ATTORNEYS AT LAW

321-363-1634 ☎
Tessmari.com 🌐

November 27, 2024

ATTORNEY CLIENT COMMUNICATION PRIVILEGED – CONFIDENTIAL ATTORNEY WORK PRODUCT

(via e-mail)
City of Deltona
c/o Dale “Doc” Dougherty
City Manager, City of Deltona
2345 Providence Blvd.
Deltona, FL 32725

Re: Deltona Retail Holdings, LLC, et al., v. City of Deltona
Case no.: 2024-12573-CIDL (Fla. Cir. Ct., 7th Jud. Cir., Volusia Cnty.)
Claim no.: GO-2417 / 430298

Dear City Manager Dougherty:

On October 28, 2024, Preferred Governmental Insurance Trust issued a denial of coverage letter as to the above case/claim. Preferred initially provided a defense to the City and retained me as to the same. Through the above date, I acted in this regard on the City’s behalf, and no other attorneys have had any involvement in representing/defending the City. Moving forward, of course, the City will require legal representation as to the above action, which remains open and active.

Based on Preferred’s denial of coverage, the City has the following options as to continued legal representation: 1) retain me independently to continue litigating the above action on the City’s behalf; or 2) engage another attorney or firm to defend the City.

I would be happy to continue working on the City’s behalf as to the above matter. If the City wishes to retain my continued services, this letter, if signed below, will confirm my engagement. The letter also provides information concerning our fees, billing, and collection policies, and other terms which will govern our ongoing relationship if the City wishes to retain me. I do not wish to be overly formal, but find it helpful to confirm the nature and terms of my representation. Of course, I welcome any questions as to the terms discussed herein, and any aspects of the attorney-client relationship.

Communication: Communication is essential to the attorney-client relationship, and my efforts on your behalf. I welcome any questions, feedback, or other communications at any time, and fully invite the same.

Fees and Billing Policies: For my and my firm’s services, I offer rates of: \$198.50 per hour for partner/attorney time, \$159.50 per hour for associate/attorney time, and \$93.50 per hour for paralegal time. I would note, these rates are well below prevailing market rates and rates my firm

and I typically charge in litigation like this. However, I offer these rates as they were the rates Preferred was paying before the denial of coverage, and in recognition and appreciation of my long-standing relationship with the City. We bill our time in 1/10-hour (i.e., 6-minute) increments. We prepare and submit our bills for payment on a monthly basis (assuming billable work has been performed in a given month). We charge for all time spent representing client interests, including but not limited to: telephone calls and conferences with your representatives; conferences amongst our legal and paralegal personnel; legal research; responding to client requests for information; preparation of documents; necessary attendance at any proceedings, hearings, meetings, or other events; and travel. Our rates are applied to the time spent on each task. Our invoice will be itemized, and include a brief description of the task, the amount of time spent on the task, and the total fee for the task. Each invoice is payable upon receipt, and we reserve the right to charge interest of 1.5% per month on any unpaid balance not paid within thirty (30) days of the billing date. Should we receive a payment at a time when more than one invoice is outstanding, we will apply the payment to the oldest, outstanding bill.

From time-to-time, but typically not often, we examine our billing rates and may adjust/increase our rates. We undertake such examination to account for increases in our cost of delivering legal services, economic factors, and the augmentation of a particular lawyer's ability and experience. For example, such an examination may be needed for engagements which last longer than one year. You will be informed of any such increases in writing, and they will be applied prospectively following such notification. You maintain full discretion as to whether to agree to any such increases. Should you not agree to any such increases, you are required to notify us of the same within thirty (30) days of receipt of our written notification. Should you not object within such time, you will be deemed to consent and agree to the adjusted rates.

Costs: You will be responsible for all charges we incur in the course of this representation, and for reimbursing us for any actual costs advanced on your behalf. We are committed to remaining at the cutting edge of computer and communications technology so as to provide you with a competitive advantage in technological efficiencies. Our charges may include, but are not limited to, charges for copying (\$0.25 per page for black-and-white copies, \$0.50 per page for color copies); messenger services; computer research services; travel expenses; lodging for out-of-town trips; and court filings. These charges may also include any applicable sales or service tax.

Experts, Consultants, and Investigators: It may become necessary for us to hire expert witnesses, consultants, and/or investigators to fully serve and consider your interests. We will not hire such persons unless you agree to pay their fees and charges, but we will select the persons to be hired. It is understood that your refusal to authorize the hiring of such persons, when we considered it necessary, could greatly injure or affect our ability to serve your interests, and if the absence of such persons makes it impossible, in our discretion, to continue with our representation of you, we may be forced to terminate our engagement.

Potential for Conflicts of Interest: My firm and I represent a variety of private entities and individuals, and governmental entities, throughout the state. We have not identified, and do not foresee, any conflicts of interest arising which could impact our ability to represent you. But, should we become aware of any potential conflicts, we will immediately and fully inform you of the same,

and take any actions necessary to protect your interests and the interests of any third parties who may be affected.

No Guarantees: By signing below, the City acknowledges I have made no guarantees as to the outcome of the above case/matter, and my efforts on the City's behalf. I have not given you any assurance or guarantees concerning the success of this engagement or our services or otherwise as to any outcomes, nor accepted any contractual obligation in that regard.

Completion of Representation: Your retention of me and my firm is, of course, terminable at will. However, termination of our services will not extinguish your obligation to pay any fees and expenses incurred before termination.

* * *

If the City wishes to finalize my retention, please sign below and return a copy of this letter to me. I thank you for your attention to this matter.

Sincerely,



Dale A. Scott

DAS/eah

cc: Gemma Torcivia, Esq., City Attorney, City of Deltona (via email)
Deborah James, FRP, Paralegal, City of Deltona (via email)

SIGNED AND APPROVED BY CITY OF DELTONA:

Signature: _____

Print name: _____

Office/Title: _____

Date: _____