

**GOLDEN BEACH, FLORIDA**

**RESOLUTION NO. 1540.03**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA RATIFYING THE MAYOR'S EXECUTION OF AN AGREEMENT BETWEEN THE TOWN OF GOLDEN BEACH AND LEIBOWITZ & ASSOCIATES, P.A. TO PROVIDE LEGAL SERVICES RELATING TO THE TOWN OF GOLDEN BEACH'S CABLE SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the issues surrounding cable providers are a specialized area of the law requiring services of counsel specifically versed in the area of law pertaining to cable regulation; and,

**WHEREAS**, issues arose pertaining to the sale of Charter Communications, the current cable system provider for the Town of Golden Beach to Atlantic Broadband, LLC that required the immediate attention of counsel to protect the interests of the Town of Golden Beach that could not be delayed until the next regularly scheduled meeting of the Town Council;

**NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:**

**Section 1.** That the Town Council hereby ratifies the Mayor's execution of an Agreement with Leibowitz & Associates, P.A., a copy of which is attached as Exhibit "A", to provide legal services relating to the Town of Golden Beach's cable system.

**Section 2. Severability.** That the provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, clauses, sentences and phrases of this Resolution but they shall remain in effect, notwithstanding the invalidity of any part.

**Section 3. Conflict.** That all resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

**Resolution No. 1540.03**

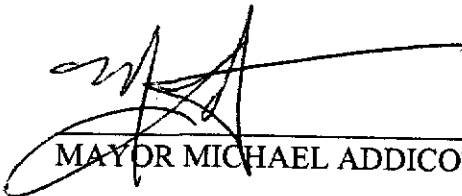
**Section 4. Effective Date.** That this Resolution shall become effective immediately upon approval of the Town Council.

**Sponsored by Administration.**

The Motion to adopt the foregoing resolution was offered by Councilmember Paruas, seconded by Vice Mayor Iglesias and on roll call the following vote ensued:


Mayor Addicott	<u>ABSENT</u>
Vice Mayor Iglesias	<u>AYE</u>
Councilmember Einstein	<u>AYE</u>
Councilmember Paruas	<u>AYE</u>
Councilmember Singer	<u>AYE</u>

**PASSED AND ADOPTED** by the Town Council of the Town of Golden Beach this 16<sup>TH</sup> day of December, 2003.




MAYOR MICHAEL ADDICOTT

ATTEST:



CATHY SZABO  
TOWN CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY



PAUL D. EICHNER  
TOWN ATTORNEY

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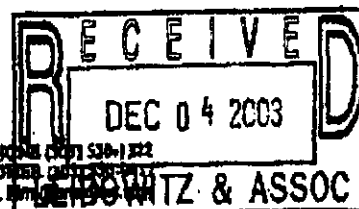
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## LEIBOWITZ & ASSOCIATES, P.A.

JOSEPH A. BELISLE  
ILA L. FELD  
THOMAS H. WILLIAMS  
MATTHEW L. LEIBOWITZ

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SUNTRUST INTERNATIONAL CENTER  
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TELEPHONE (305) 530-1122  
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E-MAIL: info@leibowitz.com



### ATTORNEY-CLIENT AGREEMENT

This is to set forth the proposed agreement between the City of Golden Beach, FLORIDA and the Law Firm of LEIBOWITZ & ASSOCIATES, P.A.

The Law Firm is available to provide to the City legal advice with respect to cable and telecommunications issues. In general, such services include, but are not limited to, negotiating new cable television franchises, modifications and renewals of existing franchises, providing advice and counsel with respect to transfers, drafting telecommunications ordinances (i.e., cable, telephone, satellite antenna and tower), drafting franchise agreements, negotiating tower leases, supervising technical and financial compliance audits, and representing the City before the Federal Communications Commission ("FCC").

#### Legal Fees and Costs

The Firm shall, in general, provide legal services to in connection with cable and telecommunications at the blended hourly rate of Two Hundred Thirty and No/100 Dollars (\$230.00) for all attorney time (Option "A"). In the alternative, at the City's option, the Firm, as Option "B," will provide such services at the Firm's current hourly rates for individual attorneys listed below:

Matthew L. Leibowitz	\$ 450.00
Joseph A. Belisle	325.00
ILA L. Feld	300.00
Thomas H. Williams	240.00
Eleni C. Pantaridis	180.00
Other Attorneys	150.00
Sr. Paralegal	125.00
Paralegal	85.00

We review and adjust our fee structure annually.

In addition to fees, Leibowitz & Associates shall be entitled to payment of all out of pocket expenses and reimbursements including, without limitation, travel outside of Miami-Dade County, Florida, long distance telephone calls, air express charges, printing and hand-delivery. Photocopies are billed at the rate of twenty five cents (\$0.25) per copy and facsimile transmissions are billed at Two and No/100 Dollars (\$2.00) per page. Retaining of outside professionals, including but not limited to, accountants and engineers incurred as a result of the above referenced service, shall be approved by the Communities prior to being incurred and shall be billed to the City at cost.

We bill on a monthly basis for work performed and costs incurred. Each statement will reflect services rendered through the twenty-fifth (25<sup>th</sup>) day of the month. All sums due and costs incurred are due and payable upon receipt of our invoice and shall accrue interest if outstanding.

15.3.2003 10:10:00 AM

\$1.00/rp  
mjl

Date	# of pages	From	To
To Eleni		From Bonnie Williams	
Phone # 3		Co.	
Fax # 305 530 9417		Phone #	
		Fax #	

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All sums due for services performed will be billed monthly. A late charge of one-half percent (1/2%) per month will be charged on amounts due and payable for more than thirty (30) days. *WJA*

If any statement is not paid within sixty (60) days, we reserve the right to discontinue legal services. However, we will not discontinue services without giving you prior notice, suggesting employment of other counsel, allowing reasonable time to employ other counsel, delivering all papers and property to which you are entitled and which we are obligated to deliver, and cooperating with counsel subsequently employed to ensure that your interests will not be prejudiced by the discontinuance. If necessary, we will employ collection services to ensure payment of overdue accounts, which shall be litigated exclusively in the appropriate state court having subject matter jurisdiction, and venue shall be in Miami-Dade County, Florida.

#### Dispute Resolution Procedures

The following procedures will be used to resolve any disputes arising from or related to our services, fees and costs. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.

#### Mediation

Any dispute shall be submitted to mediation by written notice to the other party or parties. In the mediation process, the parties will try to resolve their differences voluntarily with the aid of any impartial mediator, who will attempt to facilitate negotiations. The mediator will be selected by agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by the American Arbitration Association ("AAA") at the request of the party. Any mediator so designated must be acceptable to all parties.

The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute.

The mediation will be treated as settlement discussions, and will be treated as confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings.

Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

#### Arbitration

If any dispute has not been resolved within ninety (90) days after the written notice beginning the mediation process (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute shall be resolved exclusively by mandatory binding arbitration. The arbitration will be conducted exclusively in Miami, before the AAA.

The arbitration will be conducted by a sole arbitrator, regardless of the size of the dispute. The arbitrator will be selected as provided in the AAA rules. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of these procedures, including any contention that all or part of these procedures are invalid or unenforceable, shall be resolved by the arbitrator applying Florida law, regardless of Florida law's governing conflict of laws. No potential arbitrator may

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serve as arbitrator unless he or she agrees in writing to abide and be bound by these procedures. The fees and expenses of the arbitrator and of the AAA will be shared equally by the parties throughout the arbitration proceeding. However, at the conclusion of the arbitration proceeding, the arbitrator shall award the prevailing party reimbursement of its reasonable fees and expenses, as well as the fees and cost of the arbitrator and AAA paid by the prevailing party throughout the arbitration proceeding.

The arbitrator may not award non-monetary or equitable relief of any sort. The arbitrator has no power to award punitive damages or any other damages not measured but the prevailing party's actual damages, and the parties expressly waive their right to obtain such damages in arbitration or in any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrator have the power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.

All aspects of the arbitration shall be confidential. Neither the parties nor the arbitrator may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements or to enforce the agreement between the parties or any order or award of the arbitrator.

The result of the arbitration will be binding on the parties, and judgement on the arbitrator's award may be entered in any court having jurisdiction.

Either party may terminate this Agreement without cause with three (3) days prior written notice, provided that the Firm shall be paid for services rendered through the date of termination.

Please acknowledge your understanding of and willingness to abide by this Agreement by signing in the space provided and returning it to our office.

The undersigned has read the foregoing and consents to the terms and conditions therein.

ACCEPTED, this 4 day of Dec, 2003.

City of Golden Beach, FLORIDA

[Signature] AS Mayor By \_\_\_\_\_  
Title: \_\_\_\_\_

City of Golden Beach, FLORIDA hereby  
agrees to retain the Law Firm of  
LEIBOWITZ & ASSOCIATES, P.A.,  
pursuant to Option A described above.

Not to exceed \$5000. w/o further  
written authorization.

By: [Signature]  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_