

OUTSIDE COUNSEL AGREEMENT

THIS AGREEMENT is made between POLK COUNTY, a political subdivision of the State of Florida, and POLK COUNTY TAX COLLECTOR (collectively "County") and Foley & Lardner. ("Outside Counsel").

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree to the following:

1. Outside Counsel shall be committed to the goal of delivering high quality legal services in an efficient and cost-effective manner. Outside Counsel will not be compensated for time or expenses which are excessive, duplicative, or inappropriate for the particular task. A junior attorney learning by working with a partner may not be billed to the County.

2. Fees shall reflect the County's status as a preferred Client. For bills provided on or after the effective date of this Agreement, Outside Counsel may not bill more than \$675.00 per hour for partners, \$475.00 per hour for junior attorneys. Work performed by bona fide paralegals and certified legal assistants may be billed at no more than \$125.00 per hour. Hourly rates are expected to compensate outside counsel for all standard day to day administrative, overhead, and internal expenses; including without limitation, Westlaw, Lexis/Nexis, secretaries, timekeepers, clerks, administrators, office supplies, consumables, regular and certified postage, computer/software usage, telephone charges, e-mails, electronic data transmission fees, standard copier usage, fax charges, utilities, insurance, taxes, rents, subscriptions, registrations, memberships, sustenance, wear and tear, depreciation, service and maintenance, and accounting charges.

3. **Conflicts of Interest.** The County expects all outside counsel to always conform to the applicable Rules of Professional Conduct and the highest ethical standards and professionalism at all times. Existing conflicts of interest will be disclosed and consent obtained before beginning work.

4. **Advance Waiver of Conflicts.** The County agrees that Outside Counsel is permitted to represent other clients in matters directly adverse to the County, including in the following categories of matters, as long as such matters are *not substantially related* to the legal services Outside Counsel provides to the County:

- (i) Counseling, advice, or negotiations regarding transactions, contracts, agreements, rights, or obligations, or preparation of documents;
- (ii) Arbitration, litigation, or other contested proceedings;
- (iii) Advocacy before federal, state, or local governments, or non-judicial governmental entities;
- (iv) Bankruptcy or insolvency proceedings in which the County may have an interest; or
- (v) Evaluation of intellectual property rights, such as claim scope analysis, infringement analysis, invalidity analysis, or analysis with respect to any other statutory or non-statutory requirement, participation in connection with contested and uncontested intellectual property proceedings before the U.S. Patent and Trademark Office, or prosecution of non-interfering intellectual property rights in a related technology.

The County also agrees that Outside Counsel may represent adverse parties involved in matters that Outside Counsel handles for the County, as long as Outside Counsel's representation of those parties is *not substantially related* to the work that Outside Counsel performs for the County.

5. A primary attorney shall be mutually agreed to for each matter. A previously approved primary attorney may not be changed without the County's approval.

6. As and when requested, Outside Counsel shall provide evaluations regarding the proposed strategy, scope of work, potential outcomes, settlement options, fee, and cost budget estimates.

7. Outside Counsel may only engage additional attorneys within Outside Counsel's firm when necessary to accomplish the representation in an efficient and costs effective manner. Routine meetings, depositions, or court proceedings should be handled efficiently and without duplication of effort.

8. Expenses in excess of \$250.00, extensive research projects, experts, or consultants must be approved by the County in advance. Outside Counsel should inquire if the County has resources available to defray costs and expenses.

9. Settlements should be encouraged and the prospects for settlements should be pursued and considered as early as possible. No matter may be settled without the consent of the County Commission.

10. The use of County personnel for support at trial should be scheduled with ample notice to the employees. Their appearance and time commitment should be scheduled during regular work hours and utilized in an efficient manner to as to minimize the time required away from their normal job duties. Notices to employees to be available at trial or deposition should be directed through the County Attorney's Office.

11. Outside Counsel shall keep the County informed on the progress of Outside Counsel's representation even though Outside Counsel may be primarily interacting with other County personnel. No petition, compliant, counterclaim, cross-claim, or a third-party claim may be filed without the County's consent. Significant legal strategies shall be discussed with the County prior to implementation.

12. Reasonable expenses for customary out of town business expenses deemed integral to the completion of this engagement will be reimbursed at a cost factor of 1.0. Requests shall be submitted to the County Attorney's Office with matching receipts and specific documentation outlining the nature of the business conducted in association with the expenditure. Unless otherwise previously approved by the County Attorney, requests shall be based upon the following guidelines:

A. Car Rental –Limited to mid-size vehicles or smaller;

- B. Airline Travel – Limited to tourist or coach class fare; all efforts will be made to identify the most economical flight option available at the time of scheduling;
- C. Use of private automobiles for legal matter related travel will be reimbursed at the IRS Standard Mileage Rate for business miles driven then in effect;
- D. Hotel accommodations and meal expenses will be reimbursed in the same manner and at the same rate as county employees;
- E. Incidentals related to the hotel stay will not be reimbursed;
- F. No entertainment expenses will be reimbursed, including without limitation, alcoholic beverages, in-room entertainment, registrations, tickets to sporting events or entertainment events, banquet and/or client entertainment;
- G. No reimbursement will be provided for personal expenses of any nature.

13. Invoices shall be rendered monthly to Polk County, if any charges have accrued during that period. Statements should typically be rendered within 10 days following the end of the month in which charges accrued. Polk County shall be responsible for the payment of invoices. They should include the following:

- A. Identification of the matter;
- B. The period of time the invoice covers;
- C. A detailed description of each task performed during the billing period on a daily basis, including the name of the person performing the task; the amount of time spent to the nearest one-tenth of an hour, and the billing rate for that person;
- D. The total hourly time expended by each person with the hourly rate for that person, including a designation as to whether the person is a partner, junior attorney, paralegal, or legal assistant;
- E. Total amount of costs reimbursement; and
- F. Total.

14. **Affiliates.** Unless specifically requested by the County and agreed to by Outside Counsel, Outside Counsel's representation does not extend to the County's parent company, affiliates, subsidiaries, employees, directors, or other constituents ("Affiliates"). Accordingly, Outside Counsel may represent other clients in matters directly adverse to those Affiliates. If Outside Counsel agrees to represent an Affiliate, the County agrees that the Affiliate is bound by the Agreement, which includes these Standard Engagement Terms.

15. **Limitations of Liability.** Foley & Lardner LLP is a limited liability partnership under the laws of Wisconsin. This means the County's right to recover damages in a legal malpractice action that may exceed Outside Counsel's insurance and Firm assets is limited to the personal assets of the attorneys whose acts or omissions gave rise to the County's claim.

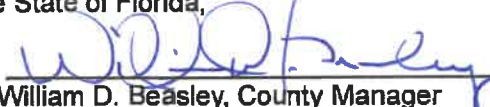
16. **Document Retention.** Pursuant to Outside Counsel's document retention policy and Rules of Professional Conduct, Outside Counsel may retain the files pertaining to the matters handled by Outside Counsel for a minimum of 10 years following the conclusion of any such matter. After that time, Outside Counsel reserves the right to dispose of file materials without

further notice, other than certain original trust and estate planning documents. Prior to disposal, Outside Counsel shall provide notice to Polk County and give Polk County 30 days to request copies of the files pertaining to this matter. Upon the County's reasonable request, Outside Counsel will provide such portions of these file materials as required by the applicable Rules of Professional Conduct or other legal requirements. Unless applicable law requires an earlier return, Outside Counsel may retain such file material pending receipt of payment of any outstanding fees or costs. Outside Counsel reserves the right to retain a copy of the County's files. In addition to its information governance policies, Outside Counsel manages the County's information in accordance with its data protection policies, which are fully incorporated into the Agreement and located at foley.com/clientprivacy.

17. Unless approved by the Polk County Board of County Commissioners, the amount of this Agreement shall not exceed one hundred thousand dollars (\$100,000.00) annually.

IN WITNESS WHEREOF, the parties have made and executed this Agreement as of the date of the last party to sign below. This Agreement shall become effective upon execution of the last party and shall continue until this Agreement is canceled unilaterally by the County, or by Outside Counsel in accordance with the applicable Rules of Professional Conduct.

POLK COUNTY, a political subdivision of
The State of Florida,

By: 
William D. Beasley, County Manager
Board of County Commissioners

Date: 9/25/2023

Foley & Lardner

By: 

Name: Robert H. Hessay

Title: Partner

Date: 9.25.2023

ATTEST:

STACY M. BUTTERFIELD, CLERK

By: 

Deputy Clerk

Polk County Tax Collector


Joe G. Tedder, CFC
Polk County Tax Collector

Date: 9/25/2023

Reviewed as to form and legal sufficiency:

By: 

County Attorney



APPROVED AND RATIFIED by the Polk County Board of County Commissioners.

POLK COUNTY BOARD OF

COUNTY COMMISSIONERS, a
political subdivision of the
State of Florida

Stacy M. Butterfield
Clerk to the Board

By: _____
Deputy Clerk

By: _____
W. C. Braswell, Chairman

Date: _____

Reviewed as to form and legal sufficiency

County Attorney's Office