

This Instrument Prepared By:
Sandra B. Howard, Esq.
Polk County Attorney's Office
P.O. Box 9005, Drawer AT01
Bartow, Florida 33831-9005

**AGREEMENT FOR ECONOMIC DEVELOPMENT
IMPACT FEE MITIGATION**

THIS AGREEMENT ("Agreement") is made as of the Effective Date (hereinafter defined) by and between Novaphos Development, LLC, a Florida limited liability company, whose address is 3220 State Road 630 West, Fort Meade, Florida 33841 (the "COMPANY") and Polk County, a political subdivision of the State of Florida, whose address is 330 West Church Street, Bartow, Florida 33830 (the "COUNTY").

WHEREAS, Section 2.08 of Polk County Ordinance 2019-056, as amended (the "Ordinance"), along with Resolution No. 19-129 (the "Resolution"), sets forth the guidelines, criteria and procedures for implementing the County's Economic Development Impact Fee Mitigation Program (the "Program") created for certain Qualified Target Industry Businesses or Owners to mitigate any real or perceived disadvantage occurring from the imposition of Impact Fees; and

WHEREAS, the COMPANY is the contract purchaser of certain real property, as further described in Section 2 below, upon which the COMPANY intends to construct or have constructed certain Capital Facilities Impact Construction; and

WHEREAS, pursuant to the Ordinance, the COMPANY submitted an application to the County Manager requesting Impact Fee mitigation on the Capital Facilities Impact Construction based on its qualification as a Qualified Target Industry Business and estimated employment figures, wages, benefits and/or capital investments, as applicable (the "Application"); and

WHEREAS, the County Manager has reviewed the Application and determined that the planned Capital Facilities Impact Construction meets the requirements for mitigation as set forth in the Ordinance; and

WHEREAS, as a condition of the Impact Fee mitigation being granted, the COMPANY is required to enter into an agreement with the COUNTY to ensure that the COMPANY satisfies all requirements associated with the creation of jobs in the County, the fulfillment of other representations made in applying for the Impact Fee mitigation, and the granting of the Impact Fee mitigation by the County in accordance with the Ordinance.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, hereby acknowledged by the parties, the COMPANY and the COUNTY hereby agree as follows:

1. **Recitals / Defined Terms**. The Recitals set forth above are true and correct and are fully incorporated into the body of this Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed in the Ordinance.

2. **Property**. The property currently under contract for purchase by the COMPANY upon which the Capital Facilities Impact Construction will be built has a physical address of 3220 State Road 630 West, Fort Meade, Florida, 33841, Parcel ID No.: 25-31-30-000000-022020; and 0 Highway 630, Fort Meade, Florida, 33841, Parcel ID No.: 25-31-30-000000-021010; and is legally described on "Exhibit A" attached hereto and incorporated herein by reference (the "Property").

3. **Project**. The Capital Facilities Impact Construction will consist of an approximately 40,000 square foot building with a designated Impact Fee Land Use Category of Industrial – Zone C. As provided in the Application (a copy of which is

attached hereto as Exhibit "B" and is fully incorporated herein by reference), the COMPANY intends to create 28 new full-time jobs in Polk County, paying an average annual wage equal to or in excess of 115% of the 2023 average annual wage for Polk County, which is \$55,574, and providing health insurance and retirement benefits. As further stated in the Application, the COMPANY will make a capital investment in Polk County of \$10,000,000.00 or greater in construction, renovations, equipment purchases, or other major capital investment items. The COMPANY represents and warrants that the information contained in the Application is true and correct and may be relied upon by the COUNTY as a material inducement for entering into this Agreement.

4. Impact Fee Mitigation. In accordance with the Ordinance, estimated Impact Fees in the amount of \$29,160 (the "Impact Fee Amount") would be due and owing for the Capital Facilities Impact Construction prior to the issuance of a Certificate of Occupancy or Building Permit, as applicable. Based on the representations made by the COMPANY in the Application, as generally described in Section 3 above, and the mitigation guidelines set forth in the Ordinance and the Resolution, the Company qualifies for an Impact Fee mitigation equal to 35% of the Impact Fee Amount (\$10,206), resulting in an estimated remaining impact fee amount due of \$18,954. The parties hereto acknowledge and agree that the Impact Fee Amount set forth above is an estimate which may increase or decrease based on the final square footage of the Capital Facilities Impact Construction or other variables, and the Impact Fee mitigation amount shall nonetheless be 35% of the final calculated Impact Fees due at the time of payment.

5. Continuing Performance Obligations / Lien or Letter of Credit. In accordance with Section 2.08.G of the Ordinance, the COMPANY is required to maintain the Qualified Target Industry business within Polk County, including the qualifying jobs created and the capital investment in the County, as applicable, for a minimum of seven (7) years following the issuance of a Certificate of Occupancy for the Capital Facilities Impact Construction. Accordingly, to ensure payment of the mitigated Impact Fees in the event that the Capital Facilities Impact Construction no longer

qualifies for the economic development Impact Fee mitigation at any time during the seven (7) year period immediately following the issuance of a Certificate of Occupancy, the Company shall, within thirty (30) days of the Effective Date of this Agreement, either (i) post an irrevocable letter of credit payable by a financial institution with an office in Polk County, acceptable to the COUNTY, containing no conditions upon the obligation of the issuer for the payment of the principal amount and any interest due thereon ("Letter of Credit"); or (ii) execute the County's form Claim of Lien for Economic Development Impact Fee Mitigation ("Lien"), in substantially the same form as attached hereto as Exhibit "C" and incorporated herein, imposing a lien on the Property, in the amount of the mitigated Impact Fees for a period of seven (7) years. The COMPANY acknowledges and agrees that this Agreement is specifically conditioned upon either the COMPANY's execution of the Lien in recordable form, or the COMPANY's provision of the Letter of Credit, and the COMPANY's failure to provide or cause to be provided, as applicable, either the executed Lien or, alternatively, the Letter of Credit, within thirty (30) days of the Effective Date of this Agreement shall result in the automatic termination of this Agreement, with the parties having no further rights, obligations or duties hereunder.

6. Assignment Estoppel. The rights and privileges granted to the COMPANY pursuant to the Ordinance and this Agreement are not assignable or transferable in any manner without the prior written consent of the COUNTY; provided however, that notwithstanding anything herein contained to the contrary, the COMPANY may assign or transfer all or any portion of its interest in this Agreement to an Affiliate of the COMPANY without the COUNTY'S consent. An "Affiliate" shall mean any entity controlling the COMPANY, controlled by the COMPANY or under common control with the COMPANY.

7. Controlling Law. This Agreement is entered into pursuant to the laws of the State of Florida and shall be construed and enforced thereunder. In the event of litigation for any alleged breach of this Agreement, exclusive jurisdiction and venue for such litigation shall be in the Circuit Court of the Tenth Judicial Circuit, in and for Polk

County, Florida.

8. **Amendments.** Except as otherwise provided herein regarding termination, this Agreement shall not be modified or amended except by written instrument signed by all of the parties.

9. **Effective Date.** This Agreement shall become effective on the date of the last signatory hereto (the "Effective Date").

10. **Public Records.** In accordance with Section 2.08.G of the Ordinance, this Agreement, once fully executed, shall be recorded in the Public Records of Polk County, Florida. All recording costs shall be borne by the COMPANY.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

ATTEST:
STACY M. BUTTERFIELD, Clerk

POLK COUNTY, a political subdivision
of the State of Florida

By: _____
Deputy Clerk

By: _____
W.C. Braswell, Chairman
Board of County Commissioners

Approved as to form and legal sufficiency:

Date: _____

Justin B. Hart 1/24/24
County Attorney's Office Date

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ____ day of _____, 2024, by W.C. Braswell, as Chairman of the Board of County Commissioners of Polk County, Florida, on behalf of the County. He is [] personally known to me or [] has produced _____ as identification.

AFFIX SEAL

Notary Public

WITNESSES:

NOVAPHOS DEVELOPMENT, LLC,
a Florida limited liability company

[Signature]
(Print Name) Charlie Remus

By: _____
Name: Evgeny Fedoseev
Title: COO

[Signature]
(Print Name) MY THOMPSON

Date: 1/25/2024

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of [✓] physical presence or [] online notarization, this 23rd day of January, 2024, by Evgeny Fedoseev, as COO of Novaphos Development, LLC, a Florida limited liability company, on behalf of the company. He/she is [] personally known to me or [] has produced _____ as identification.

AFFIX SEAL

[Signature]
Notary Public



Mark Vignovic
Comm. #HH047402
Expires: Sept. 28, 2024
Bonded Thru Aaron Notary

EXHIBIT "A"

LEGAL DESCRIPTION

Property # 1 depicted in the application:
Parcel ID: 25-31-30-000000-022020
Address: 3220 State Road 630 West, Fort Meade, FL 33841

LEGAL DESCRIPTION:

(ACQUISITION FROM FL ELEMENTS)

A Tract of land located in the Southeast quarter of Section 30, Township 31 South, Range 25 East, Polk County, Florida, said tract being more particularly described as follows:

Commencing at the Southeast corner of Section 30; thence N 00°06'22" W on the East line of the Southeast quarter of Section 30, a distance of 41.86 feet to the North right of way of Highway 630; thence N 89°53'58" W, on said right of way, a distance of 9.91 feet; thence N 89°54'27" W, on said right of way, a distance of 933.59 feet to the Point of Beginning; thence continue N 89°54'27" W on said right of way a distance of 98.27 feet; thence S 00°05'33" W, on said right of way a distance of 5.00 feet; thence N 89°54'27" W, on said right of way, a distance of 300.03 feet; thence N 00°05'33" E, on said right of way, a distance of 5.00 feet; thence N89°54'27"W, on said right of way, a distance of 388.24 feet to the West line of the East 1730.00 feet of said Section 30; thence N00°06'18"W, on said west line, a distance of 651.51 feet to the North line of a 100.00 foot easement in favor of Florida Power Corporation; thence S89°51'36"E, on said North line, a distance of 787.74 feet; thence S00°00'00"E a distance of 650.85 feet to the Point of Beginning.

Property # 2 depicted in the application:
Parcel ID: 25-31-30-000000-021010
Address: 0 HWY 630, Fort Meade, FL 33841

LEGAL DESCRIPTION:

Parcel 1

A portion of Sections 29 and 30, Township 31 South, Range 25 East, Polk County, Florida, described as follows:

Commence at the Southeast corner of said Section 30; thence North 00°06'18" West along the East line of said Section 30 a distance of 41.86 feet to the North right of way line of County Road S-630; thence North 89°54'27" West along said North right of way line a distance of 9.91 feet to the Point of Beginning; thence West along said North right of way line for the following (5) five courses; (1) thence North 89°54'27" West a distance of 1031.86 feet; (2) thence South 00°05'33" West a distance of 5.00 feet; (3) thence North 89°54'27" West a distance of 300.00 feet; (4) thence North 00°05'33" East a distance of 5.00 feet; (5) thence North 89°54'27" West a distance of 388.24 feet to the West line of the East 1730.0 feet of said Section 30; thence North 00°06'18" West along said west line a distance of 1328.25 feet; thence South 87°15'00" East a distance of 417.79 feet; thence South 01°36'42" West a distance of 658.01 feet to the North line of a 100.00 foot easement in favor of Florida Power Corporation recorded in O.R. Book 923, page 408, public records of Polk County, Florida; thence South 89°51'36" East along said North line a distance of 1359.90 feet; thence South 01°08'09" East a distance of 53.40 feet; thence South 02°25'15" West a distance of 361.67 feet; thence South 05°20'00" West a distance of 236.19 feet to the Point of Beginning.

EXHIBIT "B"

APPLICATION

[TO BE ATTACHED HERETO]

Overview
Impact Fee Mitigation
Capital Facilities Impact Construction



Eligibility

Section I

To be eligible for an economic development Impact Fee mitigation, as described in Section 2.08 of the County's Impact Fee Ordinance (Ord. 19-056, as amended) and Resolution 2019-129, the Capital Facilities Impact Construction must qualify as a Qualified Target Industry Business and meet each of the following requirements:

1. Create a minimum of ten (10) new full time jobs paying an average annual wage of at least 115% of the Average Wage for Polk County (including overtime and bonus wages, but excluding benefits);
2. Provide a benefit package that includes health insurance and retirement;
3. Make a capital investment in Polk County of no less than ten million dollars (\$10,000,000) in construction, renovations, equipment purchases, or other major capital investment items; and
4. Maintain the Qualified Target Industry Business within Polk County, including the jobs created at the target salary levels, for a minimum of seven (7) years.

An Owner of real property upon which Capital Facilities Impact Construction is to occur shall also be eligible for an economic development Impact Fee mitigation, so long as such facilities are leased for an initial term of no less than

seven (7) years to a Qualified Target Industry Business that qualifies for an economic development Impact Fee mitigation under this Section II.

Section II

If the Capital Facilities Impact Construction meets the requirements provided above for mitigation, either the Qualified Target Industry Business or the Owner, but not both, shall be eligible to receive an economic development Impact Fee mitigation in the following amounts:

Minimum Number of jobs created	Average Wage (Based on County Average)	Mitigation % of Total Impact Fees
10	115%	25%
25	115%	35%
50	115%	50%
10	125%	35%
10	150%	50%

Specifications

7-year period of eligibility

Lien:

The Impact Fee Mitigation Agreement shall include provisions imposing a lien on the Capital Facilities Impact Construction in the amount of the Impact Fees mitigated for a period of seven (7) years. Such lien will have priority over all other liens.

or

Letter of Credit:

In lieu of lien and with permission of County Manager the applicant may

post an irrevocable letter of credit payable by a financial institution, acceptable to the County to ensure payment of impact fees in the event the property no longer qualifies for the mitigation for a period of 7 years. Such letter shall be held in the original signed form by the County Attorney's office.

The amount of the Impact Fees shall not be increased to replace any revenue lost due to the ED Impact Fee Mitigation program.

Application Process

File standard application with County Manager or Budget and Management Services Division.

Submit a \$2,241.00 administrative fee (per Resolution 2021-064) made payable to the Polk County Manager or Budget and Management Services Division.

Polk County Administration Building, 330 West Church Street, P.O. Box 9005, Drawer CA02, Bartow, FL 33831-9005, made payable to Polk County Board of County Commissioners prior to placement on Board agenda

Receipt of Impact Fee Mitigation

In order to receive a reduction of impact fees, the applicant **must** supply a copy of the approved impact fee mitigation agreement and applicable letter of credit or lien, to the associated building division. Documents should accompany permit application and plan submission.

**Economic Development
Impact Fee Mitigation Application**



Contact Information	
Name of Business: Novaphos Development LLC	Business FEIN: 27-3709230
Must be a business unit or reporting unit of a business unit that is registered with or will be registered with the State of Florida for unemployment compensation purposes.	
Type of business corresponding to the most recently adopted State of Florida Qualified Target Industry list: Manufacturing	Contact Person: Tim Cotton
Phone Number: 646-286-1312	Email: tcotton@novaphos.com
Project Information	
Project Name: Project Bay	Type of Project: <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Relocation/location
Project Activity: <input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Change of Use	Specify: <input type="checkbox"/> Leasing <input checked="" type="checkbox"/> Purchasing
Property Address: 3220 State Road 630 West, Fort Meade, FL 33841 &	Legal description of property: Parcel ID: 25-31-30-000000-022020 & 25-31-30-000000-021010
Name and address of property owner, if different from business owner: n/a	If the property owner differs from the applicant listed, please explain the relationship: n/a
Project Description: See Addendum B	List the anticipated size of new construction: 40,000 ft²
Date by which all construction is anticipated to be completed: 12/26	List the anticipated value of improvements to be made on-site:
List the anticipated capital investment in equipment for the site: \$ 25,300,000	\$ 6,700,000
Project Employment	
Total number of net new jobs created by the project at the business unit that is to be located or expanded in Polk County: 28	Date by which the new jobs will be created (must be within one (1) year of issuance of Certificate of Occupancy): 12/2027
Is the project supplying: <input checked="" type="checkbox"/> Lien <input type="checkbox"/> Letter of Credit	Average Wage: \$ 56,160/yr. (\$27/hr.)
Proof of Qualification (To be completed by the County)	
Company has demonstrated that there is a real or perceived disadvantage occurring from the imposition of impact fees: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Minimum 10 new jobs, 115% wage (excluding benefit cost, must provide proof of employee health insurance and retirement benefits): <input checked="" type="checkbox"/> yes <input type="checkbox"/> no
\$10 million capital investment requirement: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Average annual wage: 56,160
\$2,241.00 payment received: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no	
Impact Fee Land Use Category	
Estimated impact fee: \$18,954.00 (Industrial Category/Rate)	
Qualifying Mitigation: <input type="checkbox"/> 25% <input checked="" type="checkbox"/> 35% <input type="checkbox"/> 50%	Estimated mitigation amount: \$10,206.00
Parcel ID #: 25-31-30-000000-022020	Permit #: TBD

Economic Development
Impact Fee Mitigation Application



Guidelines

- Polk County requires that job creation, wage and capital investment requirements are met, as set forth in Resolution No. 2019-129 within one (1) year of the date the certificate of occupancy is issued.
- The mitigation recipient must submit sufficient backup documentation to demonstrate compliance with capital investment requirements which may include, but shall not be limited to, the recipient's ad valorem tax bill from Polk County, proof of payment of ad valorem taxes for that year, a certified MAI appraisal and or CPA or CFO certifications.
- Failure to meet the Capital Investment requirement, job creation or wage criteria at any point during the term of the agreement negates any and all Impact Fee Mitigation awards.
- Polk County may utilize a third party auditor, to verify job and wage requirements for the term of the agreement.

STATE OF Florida COUNTY OF Polk

Sworn to (or affirmed) and subscribed before me, by means of [] physical presence or [] online notarization, this 20th day of December, 2023

by Timothy Cotton

Personally Known: ; OR Produced Identification: _____

Type of Identification Produced: N/A

Signature: [Signature]

NOTARY PUBLIC-State of Florida
sign: Mark Vignovic

print: Mark Vignovic



Mark Vignovic
Comm. #HH047402
Expires: Sept. 28, 2024
Bonded Thru Aaron Notary

Signature of applicant: [Signature] Date 20 December 2023

Authorized by County Manager: _____ Date _____

Addendum B

Project Description

Construction and operation of the first Novaphos commercial manufacturing plant, which will increase and diversify supplies of Superphosphoric acid (SPA) essential for the many US farmers that use liquid fertilizers.

EXHIBIT "C"

CLAIM OF LIEN FORM

[TO BE ATTACHED HERETO]

Prepared by and return to:
Sandra B. Howard
P.O. Box 9005
Drawer AT01
Bartow, FL 33831-9005

CLAIM OF LIEN FOR ECONOMIC DEVELOPMENT IMPACT FEE
MITIGATION PROGRAM
(Polk County, Florida)

To NOVAPHOS DEVELOPMENT, LLC, a Florida limited liability company, owner of the premises hereinafter described (the “Owner”), and to all interested parties who may be concerned:

You are hereby notified that Polk County, Florida, (the “County”) hereby claims a lien upon the following described property:

Parcel ID: 25-31-30-000000-022020; and
Parcel ID: 25-31-30-000000-021010

[INSERT LEGAL]

together with all improvements thereon (the “Property”), which received a certificate of occupancy on _____ (the “Lien Commencement Date”). At that time, \$ _____ was owed to the County for impact fees imposed pursuant to Ordinance No. 2019-056, as amended (the “Impact Fee Ordinance”). Owner, or Owner’s tenant, applied for the Economic Development Mitigation Program, which mitigates a portion of impact fees pursuant to Section 2.08 of the Impact Fee Ordinance subject to a lien being recorded in the amount of the mitigated impact fees, which request was approved by the County.

Wherefore, Polk County hereby claims a lien upon said Property in the amount of \$ _____ which is the amount of impact fees mitigated pursuant to the Economic Development Impact Fee Program.

This lien is recorded pursuant to Section 2.08 of the Impact Fee Ordinance. In the event the Owner, or Owner’s tenant, as applicable, fails to satisfy the criteria for the Economic Development Impact Fee Mitigation Program or in the event that the property is transferred to another owner who does not satisfy the criteria for the Economic Development Impact Fee Mitigation Program as set forth in Section 2.08 of the Impact Fee Ordinance within seven (7) years after the Lien Commencement Date, the full amount of Impact Fees due to the County pursuant to the Impact Fee Ordinance at the time of such change in circumstances shall be immediately due and payable.

This lien shall expire on the seventh (7th) anniversary of the Lien Commencement Date.

THIS LEGAL DOCUMENT REFLECTS A GOVERNMENTAL LIEN HAS BEEN PLACED ON THE SUBJECT REAL PROPERTY. THIS LIEN SHALL REMAIN VALID UNTIL A RELEASE OF LIEN HAS BEEN RECORDED OR UPON THE ANNIIVERSARY DATE AS SET FORTH IMMEDIATELY ABOVE, WHICHEVER OCCURS FIRST.

POLK COUNTY, FLORIDA, as Lienor

By: _____

Print Name: _____

Title: _____

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this ____ day of _____, 202__, by _____, as _____, on behalf of Polk County, Florida, who is personally known to me or produced _____ as identification.

Notary Public, State of Florida

Print Name: _____

Commission No.: _____

Commission Expires: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

PROPERTY OWNER:

Acknowledged and agreed to:

NOVAPHOS DEVELOPMENT, LLC,
a Florida limited liability company

By: _____

Print Name: _____

Title: _____

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me, by means of [] physical presence or [] online notarization, this _____ day of _____, 202__, by _____ of Novaphos Development, LLC, a Florida limited liability company, on behalf the company, who is [] personally known to me or [] produced _____ as identification.

Notary Public, State of Florida
Print Name: _____
Commission No.: _____
Commission Expires: _____