

FEE AGREEMENT

I. PARTIES

THIS AGREEMENT is made and entered into by and between the following parties:

- A. Indian River County (“Client”)
Department of Utility Services
c/o Vincent Burke
Administration Building A
1801 27th Street
Vero Beach, FL 32960-3388

and

- B. Hopping Green & Sams, P.A., (“HGS”)
119 South Monroe St., Suite 300 (32301)
P.O. Box 6526
Tallahassee, FL 32314

II. SCOPE OF SERVICES

In consideration of the mutual undertakings and agreements contained herein, the parties agree as follows:

- A. Client agrees to employ and retain HGS as its attorney and legal representative to assist Client in renewing its consumptive use permit (CUP) and increasing the water allocation under that permit to meet Client’s future water needs. This includes working with Client’s staff and consultants to develop strategies and approaches to meet the CUP criteria; attending multiple pre-application and other meetings with the St. Johns River Water Management District staff to address permitting issues; preparing and reviewing permit application materials; and reviewing and editing draft permit documents. This representation does not include defending this CUP against an administrative or legal challenge from a third party, which would be covered by a separate agreement should such challenge occur.

- B. HGS accepts such employment and agrees to serve as attorneys for and provide legal representation to the Client in connection with those matters referenced above.

III. CLIENT FILES

The files and work product materials (“client file”) of the Client generated or received by HGS will be maintained by HGS in its regular offices. At the conclusion of the representation, the client file will be stored by HGS in accordance with HGS’ document retention policies but held no longer than 5 years unless specifically directed otherwise by Client, or unless the client file is requested by Client in which event HGS will return the client file to Client assuming all fees and obligations established in this Agreement have been satisfied in accordance with the terms herein.

IV. FEES

- A. The Client agrees to compensate HGS for services rendered in connection with any matters covered by this Agreement according to the agreed upon hourly billing rates for individual HGS lawyers, plus actual expenses incurred by HGS in accordance with the attached standard Expense Reimbursement Policy (Attachment A, incorporated herein by reference). The hourly rates of the attorney(s) who are initially expected to handle the bulk of Client’s work are Eric Olsen \$405/hour, David Childs \$290/hour, Timothy Riley \$290/hour, and Erin Tilton \$250/hour. To the extent other HGS attorneys or law clerks provide work on this matter, those rates will be provided to Client. Paralegals are billed at \$125/hour, legal assistants at \$100/hour and the range of hourly rates for HGS attorneys is \$245-\$550.
- B. To the extent practicable and consistent with the requirements of sound legal representation, HGS will attempt to reduce Client’s bills by assigning each task to the person best able to perform it at the lowest rate so long as he or she has the requisite knowledge and experience. HGS’ hourly billing rates are reevaluated annually prior to the beginning of the calendar year and are subject to change each year at that time. Annually revised hourly billing rates will not be put into effect without notice to and consent by Client; however, Client’s consent will not be unreasonably withheld for annual adjustments of up to \$15/hour.

- C. In addition to billing for hourly rates, HGS will include costs and expenses (including interest charges on past due statements) on its billing statements for Client reimbursement in accordance with the attached standard Expense Reimbursement Policy (Attachment A).

V. FLORIDA EXECUTIVE AND LEGISLATIVE BRANCH LOBBYING LAWS

Florida law requires any individual participating in executive or legislative branch lobbying to register as an executive or legislative branch lobbyist and report any fees associated with such representation. To the extent that HGS represents Client on matters before executive branch agencies, or before applicable legislative entities, Client agrees to sign client consent forms required by Florida lobbying law and agrees to registration of HGS attorneys as lobbyists and the reporting of fees associated with such representation.

VI. BILLING AND PAYMENT

The Client agrees to pay HGS monthly billings for fees and expenses incurred within thirty (30) days following receipt of a statement from HGS. HGS shall not be obligated to perform further legal services under this Fee Agreement if any such billing statement remains unpaid longer than thirty (30) days after submittal to and receipt by Client. Non-payment of fees shall be a basis for HGS to immediately withdraw from the representation without regard to remaining actions necessitating attention by HGS as part of the representation.

VII. ATTORNEY'S FEES AND COSTS

In the event of a dispute arising under this Agreement, whether or not a lawsuit or other proceeding is filed, each party shall bear their own costs and attorney's fees. Venue of any such action shall be exclusive in the state courts for Indian River County, Florida.

VIII. TERMINATION

Either party may terminate this Fee Agreement upon providing prior written notice to the other party at its regular place of business. All fees due and payable in accordance with this Agreement shall accrue and become payable pursuant to the terms of this Agreement through the date of termination.

IX. WAIVER OF POTENTIAL CONFLICTS

The Client agrees and understands that HGS represents numerous landowners and businesses that have or may seek legislation and permits, land use approvals, leases, or other similar authorizations from the Client as a governmental entity which may be adverse to Client as a governmental entity. The Client understands that HGS' work for these other entities in these contexts has no bearing on, and is unrelated to, the work HGS does for Client. The Client expressly acknowledges that such representations by HGS of other entities may be currently ongoing or may arise in the future and, to the extent allowed by Rule 4-1.7, Florida Rules of Professional Conduct, does hereby waive any associated conflict that may exist. However, this conflict waiver shall not extend to or cover any representation by HGS that is adverse to the Indian River County Utilities Department or Solid Waste and Disposal District (SWDD), and HGS agrees not to represent any other entity in any matter adverse to the Indian River County Utilities Department or SWDD.

Client enters into this conflict waiver only after being fully advised of the risks and advantages of representation burdened with a conflict of interest, reasonably available alternatives, and having had an opportunity to seek the advice of counsel and to raise any questions or concerns with regard to this waiver.

X. PUBLIC RECORDS COMPLIANCE

- A. Client is a public agency subject to Chapter 119, Florida Statutes. HGS shall comply with Florida's Public Records Law. Specifically, HGS shall:
- (1) Keep and maintain public records required by the Client to perform the service.
 - (2) Upon request from the Client's Custodian of Public Records, provide the Client with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
 - (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if HGS does not transfer the records to the Client.

- (4) Upon completion of the contract, transfer, at no cost, to the Client all public records in possession of HGS or keep and maintain public records required by the Client to perform the service. If HGS transfers all public records to the Client upon completion of the contract, HGS shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If HGS keeps and maintains public records upon completion of the contract, HGS shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Client, upon request from the Custodian of Public Records, in a format that is compatible with the information technology systems of the Client.

B. IF HGS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO HGS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

(772) 226-1424

publicrecords@iregov.com

Indian River County Office of the County Attorney

1801 27th Street

Vero Beach, FL 32960

- C. Failure of HGS to comply with these requirements shall be a material breach of this Agreement.

XI. TERMINATION IN REGARDS TO F.S. 287.135:

HGS certifies that it and those related entities of HGS as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. In addition, if this agreement is for goods or services of one million dollars or more, HGS certifies that it and those related entities of HGS as defined by Florida law are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes and are not engaged in business operations in Cuba or Syria.

Client may terminate this Contract if HGS is found to have submitted a false certification as provided under section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran

Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, as defined by section 287.135, Florida Statutes.

Client may terminate this Contract if HGS, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies that exist for the purpose of making profit, is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as set forth in section 215.4725, Florida Statutes.

XII. EXECUTION OF AGREEMENT

This Agreement shall be deemed fully executed upon its signing by HGS and the Client. The contract formed between HGS and the Client shall be the operational contract between the parties.

XIII. ENTIRE CONTRACT

This Agreement constitutes the entire agreement between the parties.

Accepted and Agreed to:

INDIAN RIVER COUNTY

HOPPING GREEN & SAMS, P.A.

By: _____

By: _____

Its: _____

Vice President

Date: _____

Date: _____

HOPPING GREEN & SAMS P.A.
EXPENSE REIMBURSEMENT POLICY

The following is Hopping Green & Sams' standard expense reimbursement policy. This policy applies unless a different arrangement has been negotiated based on the unique circumstances of a particular client or matter.

All expenses are billed monthly. Billings ordinarily reflect expenses for the most recent month, except where there are delays in receiving bills from third party vendors.

Interest. For all statements outstanding ninety (90) days past the invoice date, simple interest at a rate of one percent (1%) per month (twelve percent per annum) will be assessed on the outstanding fees and expenses.

Photocopying and Printing. In-house photocopying and printing is charged at \$.25 per page (black & white) and \$.50 per page (color). Outside copying is billed as a pass-through of the outside vendor's charges.

Facsimile. Outgoing facsimile transmissions are charged at \$1.00 per page. There is no charge for incoming faxes.

Postage. Postage is billed at actual cost.

Overnight Delivery. Overnight delivery is billed at actual cost.

Local Messenger Service. Local messenger service is billed at the IRS approved reimbursement rate.

Computerized Legal Research. Charges for computerized legal research are billed at an amount approximating actual cost.

Travel. Travel (including air fare, rental cars, taxicabs, hotel, meals, tips, etc.) is billed at actual cost. Where air travel is required, coach class is used wherever feasible. Out-of-town mileage is billed at the IRS approved reimbursement rate.

Consultants. Unless prior arrangements are made, consultants are ordinarily employed directly by the client. Where consultants are employed by the firm, their charges are passed-through with no mark-up. The client is responsible for notifying the firm of any particular billing arrangements or procedures which the client requires of the consultant.

Other Expenses. Other outside expenses, such as court reporters, agency copies, etc. are billed at actual cost.

Word Processing and Secretarial Overtime. No charge is made for word processing. No charge is made for secretarial overtime except in major litigation matters where unusual overtime demands are imposed.

Attachment A