

OFFICE OF GENERAL COUNSEL
CITY OF JACKSONVILLE

JASON R. GABRIEL*
GENERAL COUNSEL



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JULIA B. DAVIS
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CHRISTOPHER GARRETT
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SEAN B. GRANAT
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WENDY L. MUMMAW
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TRACEY KORT PARDE
JACOB J. PAYNE
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R. ANTHONY SALEN
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KEALEY A. WEST
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GABY YOUNG

July 22, 2019

*BOARD CERTIFIED CITY, COUNTY
AND LOCAL GOVERNMENT LAW

Kevin E. Hyde, Esquire
Attorney at Law
Foley & Lardner, LLP
1 Independent Drive, Suite 1300
Jacksonville, Florida 32202

Via Email: KH Hyde@foley.com

Re: Engagement Letter to Provide Legal Services to JEA Relating to Labor,
Employment, Collective Bargaining, Procurement, Regulatory Matters, Securities and
General Corporate and Transactional Matters

Dear Kevin:

This letter is to confirm the engagement of the law firm of Foley & Lardner, LLP (the "Firm"), by JEA pursuant to the authorization of the City of Jacksonville, Office of General Counsel ("OGC"). The Firm is being retained to provide legal services as outside counsel to JEA. More specifically, the Firm will provide advice and counsel to JEA in close cooperation and consultation with JEA's management and OGC on the following (collectively, the "scope of services" or "legal services"):

- 1) Advise JEA and OGC in negotiations regarding employee benefits, labor negotiations, collective bargaining and other labor and employment matters.
- 2) Advise JEA and OGC in the legal areas of procurement, regulatory matters, corporate and transactional matters, and litigation matters.

Office Telephone
(904) 255-5100

Writer's Direct Line
(904) 255-5059

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(904) 255-5119

Writer's E-Mail Address
LHodges@coj.net

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July 22, 2019

Page 2

- 3) Prepare and review documents and agreements and develop positions to assist the JEA and OGC evaluate legal responses and strategies related to the legal services;
- 4) Attend conferences, meetings, negotiating sessions and other venues at the request of OGC;
- 5) Engage third party consultants, subject to prior approval by the JEA and OGC, who may assist with matters beneficial to supporting the matter described; and
- 6) Advise JEA and OGC on all other services as may be required or implied in order to complete the scope of services and such other operational legal matters as requested and approved by JEA and OGC.

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

The first purpose of this letter is to confirm the Firm's engagement as counsel and to confirm certain information concerning fees and billing, and other terms that will govern our relationship. You will be the Firm's primary contact in the above-referenced matter. The hourly rates and opportunities for fees and compensation for the legal services provided by Firm attorneys, paralegals and other support staff in this matter shall be the rates as set forth in Exhibit A attached hereto. Secretarial time will not be billed. In the event that the Firm may, from time to time, recommend that other attorneys and/or paralegals be enlisted to provide assistance on these matters, you will notify OGC when that is recommended to obtain prior written approval and agreement upon the hourly rate for each such person.

This engagement is limited to a "not-to-exceed" an initial amount of \$250,000.00, and is governed by the City of Jacksonville Ordinance Code and Charter. The Firm agrees to notify OGC when \$200,000.00 of the budget has been expended and recognizes that the not-to-exceed amount cannot be modified without written amendments authorized in accordance with the Ordinance Code and Charter. No fees or costs shall be billed to JEA beyond the foregoing amount without a written amendment to this engagement letter signed by the Firm and the General Counsel or his designee, and subject to the required and authorized approvals as set forth in the Ordinance Code and Charter. The parties recognize the above amount may be exceeded depending on the volume and complexity of the work to which it may be assigned. All files created during the retention of the matters at hand are the property of JEA. Upon the conclusion of the matters, or upon a written request by JEA for their production, all such files shall be returned to JEA. Notwithstanding anything to the contrary, the Firm is permitted to retain copies of the client file at its expenses pursuant to the applicable ethical authority.

Regarding the matters mentioned above, upon request by JEA or OGC, the Firm shall provide JEA with quarterly projected budgets for work and expenses which the Firm reasonably believes will be necessary to incur in order to properly counsel JEA, subject to OGC review and approval. The Firm will include in these budgets a general description of the tasks expected to be necessary or recommended based on developments in the legal services provided, as well as a general estimate of the range of the range of probable costs and expenses to perform the work. If JEA and OGC determines, based on these budgets, that there are particular items of concern, either as to necessity, strategic advisability, or expense, we will discuss these in good faith with you and will resolve these issues before you will perform the work. If we cannot reach agreement, you may opt to conclude your representation.

The Firm will comply with the Jacksonville Ordinance Code and JEA's travel reimbursement policy. No travel costs exceeding the amounts allowed by such policy will be reimbursed to the Firm. The Firm also agrees to charge JEA the lowest amounts that it charges to other governmental clients for administrative costs such as photocopying, faxing, delivery, etc., although it is contemplated that billing for such services should be minimal because such services will normally be provided by JEA.

Detailed monthly billings will be submitted each month to JEA Accounts Payable, c/o Kevin Holbrooks, 21 W. Church Street, Jacksonville, Florida and an electronic copies to Lawsikia J. Hodges, Deputy General Counsel, lhodges@coj.net, and Lynne Rhode, Senior Vice President and Chief Legal Officer, rhodlc@jea.com. The Firm shall also submit reasonably detailed itemized bills to JEA in tenth-of-an-hour billing increments format and shall break down the tasks performed by each person involved and will identify by initials or name each person who performs the respective tasks to JEA. Payment will be remitted by JEA approximately thirty days following receipt of the billings. The parties will endeavor in good faith to resolve promptly any billing issues as may arise from time to time.

OGC is aware that the nature of the Firm's practice is such that the Firm may from time to time concurrently represent one client in a particular case or matter and an adversary of that client in an unrelated case or matter if it is the Firm's professional judgment that the Firm can undertake the concurrent representation impartially and without any adverse effect on the other responsibilities the Firm has to either client. More specifically, OGC and JEA agree as follows:

a. OGC and JEA agree that, even though the Firm represents the JEA in the matters described here, the Firm may represent in the future other parties who are adversely involved in these matters, or who may later become involved in such matters, as long as that representation of other parties is substantially unrelated to the matters.

b. OGC and JEA agree that the Firm may represent current or new clients in work directly adverse to the JEA; provided such work is not substantially related to the matters described here, and the Firm does not use any of JEA's confidential information in representing such clients. This consent includes our being trial counsel in litigation adverse to JEA. In addition, the OGC and JEA agree that, even though the Firm represents the JEA in the matters described here, the Firm may represent in the future other parties who are adversely involved in such matters, or who may later become involved in such matters. By way of examples only, and assuming such representations are not substantially related to the matters, we may represent one or more parties in bankruptcy cases that may have interests adverse to JEA, we may represent clients with regard to intellectual property rights that may be adverse to those of JEA, or we may represent clients in contract or other business disputes adverse to JEA. The Firm agrees that it will not use any of JEA's confidential information in representing such other clients and, when needed, we will establish an ethical wall to assure that confidential information is not exchanged between those working on the matters described here and those working for such other clients.

c. The Firm represents Whitefish Energy Holdings, LLC ("Whitefish") in connection with a variety of matters, including the outstanding demand letter issue by JEA (the "Whitefish Matter"). Representation of JEA at the Firm may create a conflict or potential conflict of interest because in the

July 22, 2019

Page 4

Whitefish Matter, Whitefish's interests are adverse to the interests of JEA. The Firm believes that representation of Whitefish in the Matter will not compromise its relationship with JEA and that the Firm can represent JEA if not JEA and Whitefish consent. By signing this letter, JEA and OGC are expressly consenting to the Firm's representation of Whitefish in the Matter.

d. Our Firm policy requires that any advance waiver of future conflicts be in writing, and by signing and returning a copy of this Agreement, OGC and JEA agree to this advance waiver.

e. In addition, the Firm agrees to promptly provide JEA & OGC with notice of any matter opened for another client in reliance on this advance waiver, to the extent permitted by the Rules of Professional Conduct.

OGC, may terminate the Firm's representation by delivering a written notice of termination to the Firm. The Firm will also have the right to withdraw from its representation of JEA at any time with OGC's consent or for good cause without OGC's consent. If the Firm is discharged or elects to withdraw, the parties will take all steps necessary to free each other of any obligation to perform further, including the execution of any documents necessary to complete the termination of the representation, and will take all steps that are reasonably practicable to protect JEA's interest. If a discharge or withdrawal occurs, the Firm will be entitled to be paid or reimbursed for all authorized costs and expenses paid or incurred on JEA's behalf, and the Firm will be entitled to be paid a reasonable fee for the authorized legal services rendered to the date of termination and for which the Firm previously had not been paid.

Following the conclusion of the Matter, we will maintain the confidentiality of any of OGC's confidential information provided us in accordance with applicable Rules of Professional Conduct. We will attempt to return to OGC any original documents provided by OGC, or provided by a third party, unless OGC provides written authorization to destroy them.

The Firm has internal policies that determine the retention period for closed representation files, which includes all electronic or hard copy records related to the Matter. Therefore, we will retain the files pertaining to the Matter, including material prepared by or for the internal use of our attorneys, for a minimum period of ten (10) years following the conclusion of the Matter. Therefore, if the OGC does not request return of this file material prior to the expiration of the retention period, the Firm reserves the right to destroy it at the end of the defined retention period without further notice to OGC. Upon OGC's reasonable request, the Firm will provide such portions of these file materials to OGC as required by the applicable rules of professional responsibility or other legal requirements. Unless applicable rules of professional responsibility require an earlier return, we may retain such file material pending receipt of payment of any outstanding fees or costs. The Firm reserves the right to retain a copy of OGC's representation files.

Notwithstanding, all files created during the Firm's retention of the matters at hand are the property of JEA. Upon the conclusion of such matters, or upon a written request by JEA for their production, all such files shall be returned to JEA.

Pursuant to Section 119.0701, Florida Statutes, the Firm is required to comply with Florida's

July 22, 2019

Page 5

public records laws, specifically to:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City's custodian of public records, provide the City 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 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.
4. Upon completion of this engagement, transfer, at no cost, to the City all public records in your possession and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

IF THERE ARE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, THE FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE OFFICE OF GENERAL COUNSEL, 117 WEST DUVAL STREET, SUITE 480, JACKSONVILLE, FLORIDA 32202, (904) 255-5100.

Any dispute over fees and/or costs (a "Dispute"), including the question of arbitrability of such disputes, will be submitted to and settled exclusively by binding arbitration, in accordance with the provisions of this section, subject only to any applicable requirement of law that the parties engage in a preliminary non-binding mediation or arbitration regarding fee disputes. Binding arbitration shall be conducted in accordance with the Federal Arbitration Act and Judicial Arbitration and Mediation Service Comprehensive Rules & Procedures (the "JAMS Rules") or such other JAMS Rules as may be appropriate for the matter. Arbitration shall be held in the Duval County, before an arbitrator selected pursuant to the JAMS Rules who will have no personal or pecuniary interest, either directly or indirectly, from any business or family relationship with either of the parties. All decisions of the arbitrator will be based upon applicable law, be final, binding, and conclusive on the parties.

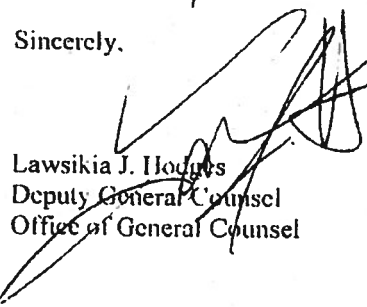
The parties will equally share the costs of the arbitrator and the arbitration fee (if any). Each party will bear that party's own attorneys' fees and costs, and the prevailing party will not be entitled to reimbursement by the other party of any of its fees or costs incurred in connection with the arbitration hereunder, regardless of any rule to the contrary in the applicable arbitration rules. Either party may seek confirmation of the arbitration award in the County of Duval, Florida, and each party hereby consents to the exclusive jurisdiction and venue of the Circuit Court in and for Duval County, Florida in any claim or action arising hereunder. By signing this Agreement containing this provision, OGC and Foley agree to waive any and all rights to a jury trial regarding any Dispute.

July 22, 2019
Page 6

If this letter correctly reflects your understanding of the scope, terms, and conditions of your representation of JEA, please execute the enclosed copy of this letter in the space provided below and return it to my attention. This letter may be executed in counterparts and by electronic signatures. If you have any questions concerning this letter or your representation, please do not hesitate to contact me.

The effective date of this letter shall be retroactive to July 1, 2019.

Sincerely,



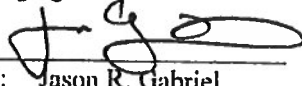
Lawsikia J. Hodges
Deputy General Counsel
Office of General Counsel

The foregoing is approved and agreed to:

Foley & Lardner, LLP

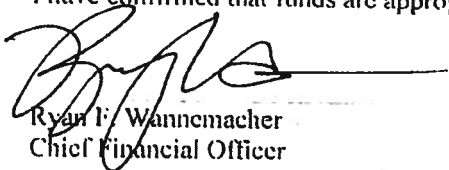
By: 
Print Name: Kevin E. Hyde, Esq.
Office Managing Partner

Date: 7/22/19

By: 
Print Name: Jason R. Gabriel
General Counsel
Office of General Counsel, City of Jacksonville

Date: 7/22/19

I have confirmed that funds are appropriated and can be encumbered to support this retention.


Ryan F. Wannemacher
Chief Financial Officer

Date: 7/22/19

cc: Lynne Rhode, Senior Vice President and JEA Chief Legal Officer, OGC
Jean Pimental, Office Manager

GC-#1290243-v1-Foley Engagement Letter - JEA.docx

GC-#1295813-v1 (pdf)

July 22, 2019

Page 7

Standard Rate Schedule

<u>Name</u>	<u>Standard Published Rate</u>	<u>Rate Charged to JEA</u>
Kevin E. Hyde	\$765.00	\$650.00
Robert H. Hosay	\$765.00	\$650.00
Christopher M. Kise	\$975.00	\$830.00
Benjamin J. Grossman	\$705.00	\$600.00
John A. Tucker	\$795.00	\$675.00

If other attorneys are assigned to work on the matter their Standard Published Rate will be discounted accorded to the same percentages reflected above.