

## DISCLOSURE COUNSEL RETAINER AGREEMENT

**THIS DISCLOSURE COUNSEL RETAINER AGREEMENT** (the "Retainer Agreement") is entered into by and between Nassau County, Florida (the "County") and the law firm of George A. Smith PLLC ("George A. Smith PLLC" or the "Firm") as of the 5<sup>th</sup> day of June, 2023.

**WHEREAS**, the Firm and its managing member, George A. Smith, Jr., have a local and statewide presence, have provided, and continue to provide, bond counsel, disclosure counsel and special counsel services to local governments in the Northeast Florida area and throughout Florida; and

**WHEREAS**, the County and the Firm desire to document and memorialize that the Firm shall be available to serve on an as needed basis as Disclosure Counsel, and/or special counsel to the County; and

**WHEREAS**, the County and George A. Smith PLLC desire to respectively receive and provide legal services specifically described herein pursuant to this Retainer Agreement.

**NOW, THEREFORE**, it is agreed as follows:

### 1. RETAINER AGREEMENT.

This Retainer Agreement shall memorialize and supplant any prior agreements between the parties concerning the provision of Disclosure Counsel and special counsel legal services.

### 2. DISCLOSURE COUNSEL SERVICES.

(A) The Firm, as disclosure counsel will, when requested by the County, perform the following services with respect to the issuance of bonds or other debt obligations and matters relating thereto:

- (1) prepare all disclosure documents at the request of the County; however, the Firm shall assume no responsibility for the disclosure documents insofar as such documents describe the financial circumstances of the offering or any other statistics, projections or data;
- (2) perform due diligence with regard to County financings;
- (3) assist the County in the compliance with federal and state securities laws;
- (4) subject to completion of proceedings to the Firm's satisfaction, render appropriate opinions to the County pertaining to disclosure as well as a reliance letter to the County's underwriters, if requested;

(5) prepare the Continuing Disclosure Certificate in order to assist the underwriters in complying with the continuing disclosure requirements of Rule 15c2-12 or its successor in function;

(6) prepare the bond purchase agreement on behalf of the County, if required.

(B) The Firm's opinions will be based on facts and law existing as of its date. In rendering an opinion, the Firm will rely on the certified proceedings and other certifications of public officials, officers of the County and other persons furnished to the Firm without undertaking to verify the same by independent investigation, and the Firm will assume continuing compliance by the County with applicable laws relating to the bonds. The Firm will rely on the County to provide complete and timely information on all developments pertaining to any aspect of the bonds, the use of proceeds of the bonds, and the security for the bonds.

(C) The Firm, as disclosure counsel will not perform the following services with respect to the issuance of bonds and matters relating thereto:

(1) traditional bond counsel services;

(2) preparation of blue sky or investment surveys with respect to the Bonds;

(3) investigation or expression of any view as to the creditworthiness of the County, any credit enhancement provider, or the bonds; or, providing services related to derivative financial products (e.g. 'swaps' and related documents or opinions);

(4) representation of the County in Securities and Exchange Commission investigations.

(D) For the services described above, the County agrees that the Firm shall be compensated for disclosure counsel services, at the time the bonds or notes are issued and delivered, at a contingent fee equal to \$44,000 assuming that the bonds are issued in one series. If the bonds are issued in more than one tranche, the fees for each tranche would be negotiable based on the principal amount, provided however that such fee shall be no less than \$35,000.

(E) The Firm's fee may vary: (1) if material changes in the structure or schedule of the financing occur; or (2) if unusual or unforeseen circumstances arise which require a significant increase in the Firm's time or responsibility; or (3) upon review of fees charged by counsel for comparable undertakings. If, at any time, the Firm believes that circumstances require an adjustment of the fee described above, the Firm will advise the County and seek an adjustment based upon the relevant circumstances. Such adjustment will only be made by the County, in its sole discretion.

(F) It is understood and agreed by the parties that the County will reimburse the Firm for reasonable out-of-pocket expenses, as permitted by law, whether or not bonds or notes are ultimately issued, and including expenses relating to hourly rate services. Such reimbursement will be for actual costs incurred, such as computer printing or photocopies, long distance telephone charges, overnight delivery charges, and travel expenses. Applicable travel expenses will be reimbursed in accordance with Section 112.061, Florida Statutes, or such other schedule of reimbursement specified by the County and agreed to by the Firm.

(C) When requested, the Firm will also prepare or review secondary market submissions at the hourly rates described in Section 3(B) hereof.

### **3. SPECIAL COUNSEL SERVICES.**

(A) George A. Smith PLLC shall also be available to provide legal services as special counsel to the County for matters unrelated to the specific issuance of new debt as a complement and supplement to the services generally provided by counsel to the County. Special counsel legal services and assistance outside the scope of services provided by the County's counsel, only when necessary and as specifically authorized, may be provided on an hourly or negotiated fee basis by separate work orders as provided herein, for the provision of other legal services of a specialized nature which the Firm may possess and are desired and specifically requested by the County.

(B) The provision of special counsel legal services shall be conditioned upon a scope of services and fee structure as directed or authorized by the County Attorney, and shall be set forth in a written work order in a form approved by the County Attorney.

(C) George A. Smith PLLC will be compensated for special counsel legal services at the Firm's most recent discounted hourly rates for local government clients or at negotiated fees based upon the skills, experience, or expertise of the attorneys involved and agreed to by the Firm through specific written work orders or as otherwise approved by the County Attorney.

(D) The Firm shall also be entitled to receive reimbursement for actual costs incurred, such as computer printing or photocopies, long distance telephone charges, overnight delivery charges, and travel expenses. Applicable travel expenses will be reimbursed in accordance with Section 112.061, Florida Statutes, or such other schedule of reimbursement specified by the County and agreed to by the Firm.

### **4. DISCLOSURE.**

We have disclosed to the County that we have historically, currently do and may in the future, serve as bond, disclosure or other counsel to other local governments or otherwise act as counsel to underwriters, investment banks and commercial banks on public finance matters.

From time to time, we may represent the firms which may underwrite the County's bonds, notes or other obligations (and other financial institutions hired by the County) in connection with financings for other governmental entities on unrelated matters. In either case, such representations are standard and customary within the municipal bond industry. In our opinion, we can effectively represent the County and the discharge of the Firm's professional responsibilities notwithstanding our representation of other parties in other matters, either because such representations will be sufficiently different or because the potential for such conflict is remote and minor and outweighed by consideration that it is unlikely that advice given to the other client will be relevant in any respect to the subject matter, and the County expressly consents to such other representations consistent with the circumstances herein described. The County consents to such representation of the other client in unrelated matters consistent with the circumstances described herein. However, the County reserves the right to identify a representation that it finds objectionable in the future, in which case the Firm agrees to take appropriate steps to resolve the issue.

## **5. CONTRACT ADMINISTRATION.**

(A) For ease and convenience of administration, the County hereby also designates its County Attorney to provide policy direction and instructions to the Firm in the administration of its duties hereunder, approving and authorizing work orders, when required, and all other matters necessary to administer this Retainer Agreement on behalf of the County.

(B) The Firm shall be entitled to reasonably rely upon direction received from the County Attorney.

## **6. GENERAL.**

(A) This Retainer Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of any dispute arising out of or relating to this Retainer Agreement, the parties agree to waive trial by jury and agree that venue shall lie in Nassau County, Florida. In the case of litigation of such disputes, the prevailing party shall be entitled to recover attorney fees and costs from the other party. This Retainer Agreement may be amended only by a written agreement entered into by the parties.

(B) This Retainer Agreement may be terminated with or without cause by the County or by George A. Smith PLLC at any time upon ninety (90) days written notice. In the event of termination, the Firm shall assume responsibility for completion of and shall be compensated for all representation requested prior to the notice of termination. Provided however, the County may terminate this Retainer Agreement for breach by the Firm with such notice as may be reasonable under the circumstances. In the event of termination, with or without cause, the Firm shall be compensated in accordance herewith for approved time and expenses expended prior to the date of termination.

(C) George A. Smith PLLC is not a "municipal advisor" as contemplated in Exchange Act Rule 15(B)(e)(4)(C) and will only provide services hereunder that are of a traditional legal nature.

(D) This Agreement will be effective for a term of five (5) years from its date of execution and will be automatically extended without any action required for successive one year renewals following the initial five (5) year period unless terminated by either the County or the Firm pursuant to subsection (B) of this Section.

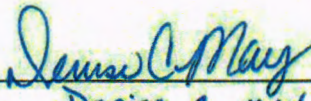
(E) This Retainer Agreement may be executed in multiple counterparts.

(F) This Retainer Agreement shall be effective on the date first written above.

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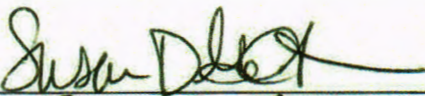
IN WITNESS WHEREOF, Nassau County, Florida, and George A. Smith PLLC have caused this Disclosure Counsel Retainer Agreement to be executed as of the dates below and effective as of the day first above written.

NASSAU COUNTY, FLORIDA

By:   
Name: Denise C. May  
Title: COUNTY ATTORNEY

Date: June 5, 2023

Attest:

By:   
Name: Susan D. Gilbert  
Title: SE Exec. Legal Assistant

GEORGE A. SMITH PLLC

By: \_\_\_\_\_  
Managing Member and Authorized Signatory

Date: June \_\_, 2023