



November 16, 2020

Mr. Stephen Sheets  
City Attorney – Round Rock, Texas  
309 E. Main St.  
Round Rock, Texas 78664

**RE: Updated Engagement Letter Between City of Round Rock and Herrera Law & Associates, PLLC Regarding SOAH Docket No. 473-18-1422.WS / PUCT Docket No. 48836.**

Dear Mr. Sheets:

On January 10, 2019, the City Council for the City of Rock, Texas (“City”) adopted Resolution No. R-2019-0002 in which it engaged our firm, Herrera Law & Associates, PLLC (“HLA”) to advise and represent the City regarding SOAH Docket No. 473-18-1422.WS / PUCT Docket No. 48836, *Paloma Lake Municipal Utility District No. 1, Paloma Lake Municipal Utility District No. 2, Vista Oaks Municipal Utility District, Williamson County Municipal Utility District No. 10, and Williamson County Municipal Utility District No. 11 Appealing the Ratemaking Actions of the City of Round Rock in Travis and Williamson Counties* (“Docket No. 48836”).<sup>1</sup>

As you know, Docket No. 48836 has not been resolved by way of settlement, the Public Utility Commission of Texas (“Commission” or “PUCT”) has disposed of several threshold legal questions regarding the scope of its review of the City’s water and wastewater rates, and has referred the case to the State Office of Administrative Hearings (“SOAH”) for a hearing on the merits of the Petitioning MUDs’ complaint. Thus, this letter is intended to confirm the terms of our continued engagement regarding our representation of the City in relation to Docket No. 48836.

As we did under our initial engagement, we will continue to review and familiarize ourselves with the City’s prior actions in its relationship with the Petitioning MUDs, including, the City Council’s actions to set wholesale water rates for the Petitioning MUDs, the contracts between the City and each Petitioning MUD, correspondence to and from the Petitioning MUDs, and of course, the Texas Water Code, the Public Utility Regulatory Act, and the Administrative Procedures Act. We also will continue to review prior decisions issued by the Commission relevant to the Petitioning MUDs’ petition and relevant opinions issued by the Texas courts of appeals. We will also reach out to Commission Staff on an

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<sup>1</sup> Paloma Lake Municipal Utility District No. 1, Paloma Lake Municipal Utility District No. 2, Vista Oaks Municipal Utility District, Williamson County Municipal Utility District No. 10, and Williamson County Municipal Utility District No. 11, are collectively referred to as the “Petitioning MUDs” and individually as the Petitioning MUD.”

as-needed basis to assist the Commission Staff in its understanding of the City's water and wastewater rates and the City's contractual relationship with each Petitioning MUD.

Additionally, in this next phase of Docket No. 48836, in representing the City's interests, we will prepare for the hearing on the merits before SOAH, leading to a decision by the full Commission. To that end, our tasks will include assisting the City in (1) preparing its rate-filing package, along with accompanying written testimony, in support of the City's rates; (2) responding to requests for information from the Petitioning MUDs and the PUCT Staff; (3) presenting the City's evidence hearings before SOAH and the Commission; (4) preparing post-hearing briefs; (5) preparing briefings following issuance of SOAH's proposal for decision; and (6) preparing any post-decision pleadings, including any motions for rehearing. Following issuance of the Commission's final order, we will review with the City the need, if any, for pursuing an appeal to the courts of the Commission's final order.

While I personally will perform much of the work on this project, other lawyers and legal assistants employed by our firm may also work in providing you our services under this Engagement Letter. All work on this project will be done under my direct supervision. My hourly rate for this project is \$485.00 per hour.<sup>2</sup> The time for our legal assistants will be billed at \$145.00 per hour and the time for our legal clerks is billed at \$125.00 to \$175.00 per hour. The time for our associates' services will be billed at a rate ranging from \$250.00 to \$335.00 per hour. The names and the billing rates for the other attorneys in our office who may assist me under this Engagement Letter are noted below:

<u>NAME</u>	<u>BILLING RATE</u>
Brennan Foley	\$335.00
Sergio E. Herrera	\$250.00

It is difficult to provide a precise amount for our services but my estimate of our legal fees to represent the City's interests in this matter through a final order from the Commission is in the range of \$250,000.00 to \$300,000.00. I stress that these amounts are an estimate and given the nature of rate proceedings before the Commission, we are not in a position to provide more precise amounts. My estimate assumes the matter is a fully-litigated proceeding before SOAH and the Commission. The amount of our fees is highly dependent on the degree of controversy the Petitioning MUDs' petition engenders, and in particular the extent of discovery disputes that arise as we move to Phase II of this proceeding and the amount of testimony the parties present in the case.

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<sup>2</sup> Please note that effective January 1, 2019, the billing rate for my services was \$475.00 per hour; beginning on January 1, 2020, my billing rate was \$485.00 per hour, where it remains. However, because we began work on this project in the latter part of 2018 at my billing rate of \$450.00, we continued my billing rate for this project at \$450.00 through 2019 and most of 2020. While I expect an incremental increase in my billing rate beginning January 1, 2021, we will retain my billing rate of \$485 per hour through issuance of a final order by the Commission.

Nonetheless, we will watch our fees and expenses closely. The fees for our services will be based on the time we spend working on project at the hourly rates I note above. Though our rates are subject to change once a year, we will maintain my billing rate through issuance of a final order by the Commission. Generally, we will bill the City for all time spent on your matter. Our firm bills in minimum one-tenth hour increments.

We will forward billing statements monthly to you or to where you instruct us. Our statements will contain a description of the service we provided, including the date the service was provided, the person performing the service, the amount of time involved, and a description of the task performed. Our monthly statements also will itemize monies we have expended on your behalf for such things as travel and accommodations, long distance telecommunications, photocopies, facsimile (fax) transmissions, and electronic legal research charges. Payment is due in accordance with Chapter 2251 of the Texas Government Code, as amended. As a matter of course we do not charge our clients for meals while traveling and our billing rate for travel time is one-half of our regular billing rates.

We have performed a check for conflicts and found no apparent or current conflicts.

If you find the terms for updated engagement of our services acceptable, please so indicate by signing where noted below. If you have any questions or concerns, please call me so we may discuss them.

We greatly appreciate the opportunity to provide these services to the City and look forward to working with you.

Sincerely,



Alfred R. Herrera  
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**ACKNOWLEDGEMENT AND ACCEPTANCE**

I have read this Updated Engagement Letter and agree to continue engagement of the services of Herrera Law & Associates, PLLC under the terms described above, and I am authorized to enter into this agreement.

Date: \_\_\_\_\_, 2020

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name of Signatory

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City of Round Rock, Texas