

# FOULSTON

ATTORNEYS AT LAW

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June \_\_, 2023

## Via Electronic Mail Delivery

[ Jim Benage ]  
[ Mayor for the City of Bel Aire ]  
[ 7651 East Central Park Avenue ]  
[ Bel Aire, KS 67226 ]

Re: Agreement for Legal Services

Dear [Name]:

We are pleased that you have engaged our Firm to serve as counsel for [ the City of Bel Aire ] (“Client”), who will be a member of the Streetlights Alliance for Fair Energy Rates coalition (“SAFER”). This letter will confirm the engagement of our Firm and describe the basis on which we will provide legal services to Client.

1. Client; Scope of Representation. We will be engaged to advise and provide counsel to Client in connection with Client’s participation along with a coalition of municipalities in the electric rate case filed by Evergy Central, Inc., Evergy Kansas South, Inc., and Evergy Metro, Inc. (collectively “Evergy”) before the Kansas Corporation Commission, Docket No. 23-EKCE-775-RTS, which is a joint application filed on behalf of all Kansas Evergy entities (“Rate Case”). The coalition will seek a reduction in the electric rates charged by Evergy for providing energy to power the streetlights in the coalition members respective municipalities. Our engagement will be limited to this matter and will not include representation of Client’s interests in any other matter unless mutually agreed in writing.

Our engagement does not include any advice or other legal services relating to federal or state securities laws, including appearing or practicing before the U.S. Securities and Exchange Commission (“SEC”) or Client’s disclosure obligations under such laws, and we understand that Client will not, without our prior written consent, include documents or information we provide to Client in any filings with federal or state securities regulators, including the SEC.

2. Fees/Terms of Engagement. The attorneys' fee in this case is a "contingency fee". This means our fee is contingent upon success in the Rate Case. We do not get paid if there is not a recovery in the case, either by settlement or award. The provisions below explain how the contingency fee works.

If Firm is successful in obtaining a reduction in the rates charged by Evergy to municipalities for the cost of energy to power their streetlights, either through litigation or through

a separate negotiated agreement, the Client agrees to pay a success fee in the amount of 20% of the Client's annual savings ("Success Fee") the year after the Commission issues a final order in the Rate Case approving the rate reduction, including an order approving a negotiated settlement with Evergy and the other parties in the Rate Case and the time for appeal of such order has expired, or the court with appellate jurisdiction over the matter has issued a final order ("Final Order"). For avoidance of doubt, the Success Fee will be determined by calculating the difference between the rate that Evergy charges on May 1, 2023 (or the rate Evergy proposes to charge on the date it files its Rate Case, whichever is higher) and the rate that the Commission determines is the appropriate rate in the Final Order ("Success Factor"), multiplying the Success Factor by the number of kWh's the Client uses to power its streetlights in the year following the date of the Final Order (or in the year following the date of the Final Agreement), and multiplying the resulting number by 20%. To the extent that the League of Kansas Municipalities incurs any cost or expenses in support of the Safer Coalition's efforts, the Firm will pay such cost or expense to the League of Kansas Municipalities from the Success Fee, if any, and no additional cost or expenses will be assessed to the coalition members.

Our Standard Terms of Engagement brochure is enclosed and describes the general understandings upon which we will provide our services to you. This brochure describes the basis upon which our legal fees will be determined, the expense items for which Client will be charged, including the expense of the expert QSI Consulting, as described above, when and how you will be billed, and other important information about the terms of our engagement. Please review this information carefully and contact me if you have any questions or concerns, or if there is any item to which you do not agree. Notwithstanding the foregoing, and for avoidance of doubt, the Client will not be invoiced for Charges or Retainers as described in the Brochure.

2. Conflicts. As we have discussed, the Firm represents many other companies and individuals. It is possible that during the time that we are representing Client, some of our present or future clients will have disputes or transactions with Client, including, but not limited to, issues related to land ownership, such as zoning, development, incentives, and tax abatements. Client agrees that, subject to our obligation to consult with Client on matters that are directly adverse to Client or which may materially limit our representation of Client, we may continue to represent or may undertake in the future to represent existing or new clients in any matter that is not substantially related to our work for Client even if the interests of such clients in those other matters are adverse to Client. We agree, however, that Client's prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of our representation of Client, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in the other matter by such client to Client's material disadvantage. Client should know that, in similar engagement letters with many of our other clients, we have asked for similar agreements to preserve our ability to represent Client.

Subject to the limitations described above in the first paragraph of this "Conflicts" section of the letter, Client: (1) waives any conflict of interest that now exists or may arise in the future by

virtue of the Firm's representation of Client in this engagement; (2) consents to the continued representation of any existing Firm clients on matters adverse to or competing with Clients; and (3) consents to allow the Firm to undertake the representation of new clients with interests adverse to Client on matters unrelated to the engagement, or competing with Client; all without first obtaining any further permission or the consent of Client, this consent and waiver being all that is needed for that representation. Because of the Firm's representation or potential representation of others in matters adverse or potentially adverse to Client, the Firm would not undertake this engagement without this conflict waiver and consent. If you have any questions or concerns about the requested waiver, you should consult with independent legal counsel before agreeing to this letter.

As we have disclosed to you, the Firm intends and you agree that the Firm will provide joint representation to all of the members of the coalition. Based on the information that is currently available, it is believed that the interests of various municipalities that are members of the coalition are aligned. As indicated in the Fees/Terms of Engagement section of this engagement, each Client will pay its pro rata portion of the Attorneys Fees and expenses which will be collected from the Success Fee described above.

You have been advised of your right to consult with a lawyer of your own choosing about our Firm's representation of all of the members of the coalition and about your consent to this engagement. You agree to accept joint representation and understand your right to consult separate counsel.

You agree that a representative of the League of Kansas Municipalities will provide the Firm direction on behalf of all the members of the coalition. Because our representation is of all members of the coalition, you agree and understand that communication to or from us may be shared with all members of the coalition. While the attorney-client privilege and our obligation to keep confidential information related to this case remains in place, any communications we receive from or about any coalition member will not be kept confidential from the other members of the coalition. Acceptance of this engagement acknowledges and authorized the sharing of such information.

4. Further Questions. The lawyer-client relationship is one of mutual trust and confidence. We strive to see that our clients are satisfied not only with our services but also with the reasonableness of the fees and disbursements charged for those services. Whenever you have any questions or comments regarding our services, or the status of Client's file(s), or whenever any new facts or considerations come to your attention, you should contact the lawyer with whom you are working, or David Rogers, the Managing Partner of the Firm. We also encourage you to inquire about any matter relating to our fee arrangements or monthly statements that is in any way unclear or appears unsatisfactory.

After considering the matters outlined in this engagement, please signify and confirm your consent and agreement by signing below and returning the signed engagement to me or by sending

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an email to me indicating that “The sender of this email is authorized on behalf of Client to agree to the Engagement terms including conflict waiver and joint representation terms, and does agree to those terms” or similar text.

We appreciate your selecting us as your legal counsel and look forward to a long and cordial relationship.

Sincerely,

FOULSTON SIEFKIN LLP

C. Edward Watson II

Authorized Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

City: \_\_\_\_\_

# FOULSTON

ATTORNEYS AT LAW

1551 N. WATERFRONT PARKWAY, SUITE 100  
WICHITA, KS 67206-4466

[THE CITY OF BEL AIRE]

## Standard Terms of Engagement

This document sets forth the standard terms of our engagement as your lawyers. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this document carefully and contact us promptly if you have any questions. You should retain this document in your file.

### 1. Charges

#### 1.1. Professional fees

Unless otherwise specified in writing to you, our fees will be principally based upon the amount of time we spend on your matter. We will, however, take other factors permitted or required under the ethical rules that govern our practice into consideration in determining our fee.

We charge time for attorneys, paralegals, legal assistants, analysts, and some support staff.

We will record time spent on your work in one-tenth of an hour (six minute) units. Each unit represents work done for all, or any part, of a six-minute period.

Currently our hourly billing rates range from \$250 to \$900 for our attorneys, and \$185 to \$265 for those paralegals, legal assistants and analysts who are likely to be involved on your matter.

#### 1.2. Expenses

We will charge you at cost for direct expenses we incur on your behalf doing your work, unless otherwise specified to you in writing. In our discretion, direct expenses will be billed directly to you by third party service providers.

We reserve the right to make and retain, at your expense, copies of all documents generated or received by us in the course of our representation of you.

#### 1.3. Office services

We reserve the right to charge you, at our cost, for certain office services that we use or supply to you to do your work, such as messenger and delivery service, long distance and telecopy, document production, facsimiles and CD/DVD/VHS reproductions.

We currently charge the Internal Revenue Service allowance for mileage and 15 cents per photocopy page. We regularly examine our costs and periodically modify all of our support charges.

#### 1.4. Secretarial and word processing services

Our fees may include secretarial and word processing services, at \$75 per hour, if these services are required outside normal business hours and requested by you in advance.

#### 1.5. Travel and accommodation

If we need to travel for your work, you agree to pay our reasonable travel and accommodation charges. In addition, work-related travel by our people will be billed at that person's hourly fee or an agreed charge.

#### 1.6. Estimate of charges

If we give you an estimate of our charges, it is based on the scope of work expected at the time we give you the estimate and it is not binding on us. If the scope of work changes, we will give you a revised estimate.

#### 1.7. Changes to our charges

We may change our charges from time to time and will notify you of any substantial changes.

### 2. Retainers

#### 2.1. Establishment

We may ask you for a retainer. Retainers will be placed in a trust account on your behalf and are refundable to the extent not subject to disbursement. Unless specifically instructed by you to the contrary, retainers will be placed by us in our unsegregated trust account. Interest earned on that account is paid to the State Bar of Kansas for its

legal services projects for the poor. If specifically instructed by you to place your retainer in a segregated trust account for your benefit, interest accruing on your segregated trust account is credited to you and must be reported by you as interest income for income tax purposes.

## 2.2. *Disbursement*

Retainers that are received to cover specified items will be disbursed as we agree. Retainers that are made by you to cover specific services and costs will be held as an advance to be applied against your fees and costs, and you expressly authorize us to withdraw from the trust account the sums necessary to pay for services as they are performed and costs as they are incurred.

You will be notified in writing of trust account amounts applied or withdrawn, and you will also be provided with a statement explaining the services rendered and the costs incurred.

We may request additional retainers to cover further services and costs, if circumstances warrant. When our services are completed or terminated, you will receive a final invoice. If there is a balance due to you, the amount will be returned to you after payment of our final invoice.

## 3. **Billing Arrangements**

### 3.1. *Monthly billing*

Unless otherwise agreed, we will issue a monthly bill. Our bill is payable within 30 days of its issuance, unless otherwise agreed.

Unless specifically stated in a separate writing, signed by both of us, payment for our services is not contingent upon the outcome of any matter.

### 3.2. *Interim statements*

In ongoing matters, when the amount involved is sufficient to warrant a billing, we customarily submit periodic interim statements for services rendered and disbursements. Interim billings are generally based solely on standard hourly billing rates.

### 3.3. *Separate billings for each matter*

If we are working on more than one matter for you, you may receive separate billings for each matter or a combined statement for all matters. If you have a preference for either separate or combined billings, please let us know.

## 3.4. *Payment*

You agree to pay for legal services we provide at your request regardless of the location or jurisdiction in which those services are provided.

If we act for you, and you have an agreement or understanding with another person (e.g. a lessee, or a party to litigation) that the third party is required to pay our charges (or any part of them), you are still liable to pay our charges.

Payment should be sent directly to the Accounting Department of the Firm in Wichita at 1551 N. Waterfront Parkway, Suite 100, Wichita, Kansas 67206.

## 3.5. *Late charge*

We reserve the right to add a monthly service charge of 1.5% in the case of late payments.

## 4. **Duty of Care**

### 4.1. *Advice given only to client*

Any advice, recommendation or work we provide to you is given solely for your benefit. You agree not to copy or give our work to any other parties without our consent.

We do not accept any duty of care or liability to any other person or entity other than the named client, unless we expressly agree.

Except as specifically agreed by us in writing, our representation of you will not give rise to a lawyer-client relationship between us and any of your affiliates, partners, individual members, officers, directors or any other entities or individuals.

### 4.2. *Opinions and subsequent developments*

Opinions we express about the outcome of a legal matter are necessarily limited by our knowledge of facts at the time opinions are expressed and the law then in effect. Nothing in our engagement letter and nothing in our statements to you should be construed as a promise or guarantee about the outcome of your matters.

Unless you engage us after completion of the matter to provide additional advice on issues arising from the matter, we have no continuing obligation to advise you with respect to future legal developments that may have an impact upon you.

If changes are made to our work, we are not responsible for any loss caused by the changes unless we have specifically approved them.

## **5. Client Responsibilities**

### **5.1. *Be candid and cooperative***

You agree that you will provide us with true, complete, candid, accurate and timely information and instructions and acknowledge that a failure to do so may result in a loss being caused to you or another party.

### **5.2. *Be available***

You will be available to confer with us and will keep us advised of your current address, telephone number and email address.

### **5.3. *Pay our bills***

You will pay our bills promptly.

## **6. Mandatory Forum Selection Clause and Choice of Law.**

Any claim, dispute or legal proceeding arising out of or relating to Firm's engagement shall be brought only in the state or federal court within Sedgwick County, Kansas, and Client (including any parent, affiliated and related entities) irrevocably submits to the exclusive jurisdiction of such courts in any such legal proceeding; waives any objection Client now or hereafter may have to the venue or to the convenience of the forum; agrees that all claims in respect of such proceedings shall be heard and determined only in any such court; and agrees not to bring any such proceeding arising out of or relating to the Firm's engagement in any other court. Any such claim, dispute or legal proceeding shall be governed by Kansas law.

## **7. Conclusion of Our Representation**

### **7.1. *Final statement***

Our representation of you will end upon our sending of a final statement for services rendered in this matter. Termination of our engagement will not affect your responsibility to pay for legal services rendered and all costs incurred up to the date of termination, and for any further work required of us in order to facilitate an orderly turnover of matters in process at the time of termination.

### **7.2. *By you***

You may end our engagement by giving us written notice at any time. If you do this, our engagement is ended from the date we receive your written notice. If you end our engagement, you must pay your pro rata portion of our charges up to the date we received your written notice.

### **7.3. *By the Firm***

We may end our engagement by giving you written notice of our intent to withdraw from our representation for any reason required or permitted by the applicable rules of professional conduct cause.

### **7.4. *Retention of your documents***

Non-public information you have supplied to us and which is retained by us will be kept confidential in accordance with applicable rules of professional conduct.

At your request, your papers and property will be returned to you promptly upon receipt of payment for outstanding fees and costs. We will retain our files pertaining to the matter.

If you would like to make copies of our files, you or your new lawyer can arrange to make copies of all our papers that we believe are necessary to continued representation. You will be charged any additional cost of copying, including professional fees for time expended in reviewing files to be copied.

We reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of our engagement.

## **8. Electronic Communications**

Electronic communications, including email, may be intercepted, redirected, or read by third parties, including other parties who may have access to your computer and by individuals who are not intended recipients but who have legitimate access to the computer system of the sender or recipient. This may occur without the knowledge of either the sender or the intended recipient.

Although we have encryption and other electronic communication security in place, you acknowledge and accept the risks that electronic communications may not always be secure. Unless you request us to do otherwise, we may communicate with you electronically, including by email.

## **9. Privacy Policy**

Subject to the rules of professional conduct governing confidentiality, Foulston Siefkin collects and may share information relating to you and your work in order to conduct its business, to provide and market our services, and to meet our legal obligations.