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## CITY OF PORT LAVACA

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CITY COUNCIL MEETING: JULY 26, 2021

AGENDA ITEM 3

**DATE:** 7.23.2021

**TO:** HONORABLE MAYOR AND CITY COUNCIL MEMBERS

**FROM:** JODY WEAVER, INTERIM CITY MANAGER. 

**SUBJECT:** JAMES LEE MURPHY AMENDMENT TO AGREEMENT

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Attached is a proposed amendment to the current Agreement the City has with James Lee Murphy as Special Council.

James has agreed to a change to what he initially proposed in the attached document as follows:

*Fees and Expenses.*

- 1) ... subject to an inflation factor as reflected in the Municipal Cost Index to be applied annually after the effective date of the amendment.

Mr. Murphy should have an update to report on August 2<sup>nd</sup>, or at least by the August regular meeting.



LAW OFFICES OF JAMES LEE MURPHY, ESQ.

265 EAST OAKVIEW PLACE  
SAN ANTONIO, TEXAS 78209

TELEPHONE (210) 859-2189

EMAIL: JAMESLEEMURPHYESQ@ATT.NET

**Attorney Client Communication**  
**Privileged & Confidential**

July 03, 2021

VIA Electronic Mail: [jweaver@portlavaca.org](mailto:jweaver@portlavaca.org)

Jody Weaver, P.E. | Interim City Manager  
202 North Virginia | Port Lavaca TX 77979  
[jweaver@portlavaca.org](mailto:jweaver@portlavaca.org) | 361-827-3601

Re: Amendment to Agreement for Legal Services; City of Port Lavaca

Dear Ms. Weaver:

I am both pleased and grateful to continue legal services in connection with the City of Port Lavaca's current relationship with the Guadalupe-Blanco River Authority ("GBRA"). This letter will amend and confirm my existing engagement for legal services effective December 9, 2019 by amending sections 2 & 3 of said agreement. The provisions in this amendment supersede existing terms, notwithstanding anything to the contrary in the original. If you have any questions about these provisions, please do not hesitate to contact me.

2. *Term of Engagement.* My representation will terminate upon the first to occur of (i) the close of business on December 31, 2022, unless the parties have entered into a written agreement, signed by each party, extending the Term for an additional period or periods; (ii) CLIENT elects to terminate the Agreement by paying the total legal services fee in full at an earlier date. In the event that we terminate the engagement, I will take such steps as are reasonably practicable to protect the Client's interests in the above matter.

3. *Fees and Expenses.* Client will pay, during the term of this engagement a fee of \$3,000.00 per month for the term of the agreement, due in full upon execution of this Agreement but payable in equal monthly payments, subject to an inflation factor as reflected in the Producer Price Index. The foregoing fee shall constitute my sole and exclusive compensation under this Agreement.

Very truly yours,

*James Lee Murphy*

James Lee Murphy, III  
State Bar License No. 14700600

**Agreed and Accepted:**

**City of Port Lavaca**

**Date:** \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**Jack Whitlow, Mayor**

\_\_\_\_\_  
**Mandy Grant, City Secretary**



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September 26, 2019

William A. "Bill" DiLibero, Esq., C.M.  
City Manager | City of Port Lavaca  
202 N. Virginia St. | Port Lavaca, Texas 77979  
Office: 361-552-9793 x 222 | Cell: 361-408-0003

Re: Agreement for Legal Services

Dear Mr. DiLibero:

Thank you for asking me to provide legal services the City of Port Lavaca regarding negotiations with the Guadalupe Blanco River Authority (GBRA). This letter will confirm my engagement and will describe the basis on which I will provide legal services. If you have any questions about these provisions, please do not hesitate to contact me.

1. *City; Scope of Representation.* My City in this matter will be the City of Port Lavaca ("the City" or "you"). I will be engaged to provide legal services in connection with negotiations and matters pending between the City and GBRA in Calhoun County, Texas. You may limit or expand the scope of my representation from time to time, provided that any substantial change in the scope of my representation must be agreed to by me.

2. *Term of Engagement.* Either the City or I may terminate this engagement at any time for any reason by written notice, subject on my part to applicable rules of professional conduct. In the event that we terminate the engagement, I will take such steps as are reasonably practicable to protect the City's interests in the above matter.

Unless previously terminated, my representation of the City will terminate upon my sending you my final statement for services rendered in this matter. Following such termination, any otherwise non-public information you have supplied to me which is retained by me 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. My own work files pertaining to the matter will be retained by me. These work files include, for example, administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, and my "attorney work product". Attorney work product encompasses material prepared by or for the internal use of lawyers, such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports subject to my law office records retention policy. For various reasons, including the minimization of unnecessary storage expenses, I reserve the right to destroy or otherwise dispose of any such documents or other materials retained by me within a reasonable time period after the termination of this engagement.



You are engaging me to provide legal services in connection with the specific matter described above. After completion of the matter, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you engage me after completion of this matter to provide additional advice on issues arising from this matter, I will have no continuing obligation to advise you with respect to future legal developments.

**3. Fees and Expenses.** My fees will be based primarily on my time spent on the matter charged at my billing rate. My billing rate for this case will be \$200 per hour. Travel time in which no work is being done is billed at travel expense plus \$50 per hour. Work done by my legal assistant(s) is billed at \$50 per hour. These billing rates are subject to change from time to time, but I will notify you at least sixty (60) days in advance of any change in these rates. Other factors may be taken into consideration in determining my fees including the responsibility assumed, the novelty and difficulty of the legal problem involved, particular experience or knowledge provided, time limitations imposed by the City, the benefit resulting to the City, and any unforeseen circumstances arising in the course of my representation.

This fully executed engagement letter acknowledges my receipt of a non-fundable advance retainer in the amount of \$3,500 ("Original Retainer Amount"). Billings for fees and expenses will be applied against the retainer and at any time that the retainer amount is reduced to a level below \$1,000, you agree to replenish the retainer to the Original Retainer Amount, or any such other amount as we agree to. Amounts in the retainer fund in excess of the Original Retainer Amount at the termination of this engagement shall be promptly refunded to the City.

I will include on my invoice statements separate charges for performing services such as photocopying, messenger and delivery service, computerized research, travel, long-distance telephone, and search and filing fees. I do not charge City for faxes, internal copy jobs of fewer than 25 copies, Westlaw research, secretarial overtime or supplies. With each bill, I will provide detailed information concerning the time expended by me and any legal assistants in connection with the work covered by the bill. At your request, I can also provide the detailed information maintained in my accounting database about each invoiced item. For this engagement, I will not engage other professional consultants unless needed to carry out this engagement and approved by you in advance.

*per month*  
Statements normally will be rendered monthly for work performed and expenses recorded during the previous calendar month. Payment is due promptly upon receipt of my statement. If any statement remains unpaid for more than 60 days, I may suspend performing services for the City until arrangements have been made for payment of outstanding statements and the payment of future fees and expenses.

The fees and costs relating to this matter are not predictable. Accordingly, I have made no commitment to you concerning the maximum fees and costs that will be necessary to resolve or complete this matter. It is also expressly understood that payment of my fees and costs is in no way contingent on the ultimate outcome of the matter.



4. *City Responsibilities.* You agree to cooperate fully with me and to provide promptly all information known or available to you relevant to my representation. You also agree to pay my statements for services and expenses in accordance with paragraph 3 above.

5. *Conflicts.* You should be aware that I may represent various other companies, cities, districts, and individuals. It is possible that during the time that I am performing legal services for you, some of my present or future clients might have disputes or transactions with you. You agree that I 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 my work for you even if the interests of such other clients in those other matters are directly adverse. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of my legal services for you, I have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage.

I trust that these terms are satisfactory and agreeable to you. If so, please so indicate by signing in the space provided below and return it to me (a scanned copy E-mailed to me is sufficient). Once again, I am pleased to have this opportunity to work with you and, as always, I will endeavor to provide high quality and efficient legal services. Please call me if you have any questions or comments about this engagement letter or otherwise during the course of my representation.

Very truly yours,  
*James Lee Murphy, Esq.*  
James Lee Murphy  
State Bar License No. 14700600

**Agreed and Accepted:**

City of Port Lavaca

By: \_\_\_\_\_

Jack Whitlow, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Mandy Grant, City Secretary