

**AMENDMENT NO. 2 TO RETAINER AGREEMENT FOR LEGAL SERVICES**

This Amendment No. 2 to Retainer Agreement for Legal Services (“Amendment”) is made and entered into by and between The City of Oklahoma City, a municipal corporation (“City”), and A New Energy, LLC, an Oklahoma limited liability company (“Attorney”).

**WITNESS:**

WHEREAS, Attorney and City entered into a Retainer Agreement for Legal Services (“Agreement”) effective August 1, 2022, through June 30, 2024, for Attorney’s provision of legal services for any Oklahoma Corporation Commission and/or telecommunications/public utility matters brought to Attorney by the City’s Office of the Municipal Counselor; and

WHEREAS, on August 1, 2023, Attorney and City amended the Agreement (“Amendment No. 1”) to increase its not-to-exceed amount by One Hundred Thousand Dollars (\$100,000) primarily due to ongoing consultation and legal services being provided for Oklahoma Supreme Court Case No. CU-120707, and to supplement Attorney’s list of attorneys and hourly rates; and

WHEREAS, Oklahoma Supreme Court Case No. CU-120707 remains pending; and

WHEREAS, Attorney and City desire to amend the Agreement for a second time to extend its term through June 30, 2025; and

WHEREAS, Attorney and City further desire to broaden the scope of potential legal services to include fuel, oil and gas, and transportation matters; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, Attorney and City agree to amend Articles I and II of the Agreement as follows:

**I. COMMENCEMENT AND TERMINATION**

This Agreement shall become effective on August 1, 2022, and shall remain in full force and effect through ~~June 30, 2024~~ June 30, 2025, subject to annual appropriation. This Agreement may be terminated before the end of the term:

1. By mutual consent of the City and Attorney; or
2. Thirty (30) days from the date written notice is received by either party from the other; or
3. Should funding for the Agreement become exhausted in full.

Should the City withdraw, for whatever reason, the coverage/funding for the City’s representation, the City agrees that all legal fees and costs incurred under this Agreement by Attorney will be covered and paid and further funding will be authorized and paid until Attorney has obtained permission by the Court to withdraw as attorney of record for the City, if applicable.

## II. LEGAL SERVICES

Attorney has provided consultant services to City regarding an Oklahoma Corporation Commission matter (No. PUD-202100164) and telecommunications matters by retainer agreements entered into on April 1, 2022, and July 27, 2022, respectively. It is anticipated that the retainers for said agreements have and/or will become exhausted and the Attorney hereby agrees, upon the exhausting (or termination otherwise) of said previous respective agreements, to provide continuing legal services pursuant to this Agreement relating to any Oklahoma Corporation Commission and/or ~~telecommunications/public utility~~ fuel, oil and gas, transportation, telecommunications, or public utility matters brought to Attorney by the City's Office of the Municipal Counselor. Attorney agrees to perform all necessary legal services on behalf of the City subject to the following conditions:

1. Attorney shall obtain prior approval of the Municipal Counselor of the City, or his designee, for any travel expenses in excess of \$500 or any other single item expense in excess of \$1,500.
2. Whenever practicable, copying of depositions, transcripts, or other case-related documents shall be performed by the Municipal Counselor, or designee, and provided to Attorney or the requesting party.
3. Attorney and the Municipal Counselor, or designee, shall share legal research and discovery materials.
4. Attorney shall maintain communication and coordinate with the Municipal Counselor, or designee, on all discovery and trial preparation regarding any matter Attorney has been asked to pursue.
5. Attorney shall coordinate with the Municipal Counselor, or designee, for discovery and trial preparation and shall be co-counsel in any case(s) relating to this Agreement.
6. Attorney shall not bill the City for the attendance of more than one attorney or associate at any one meeting, hearing, deposition, oral argument, *etc.* For billing purposes, Attorney shall have associate attorney(s) or legal assistant(s) in attendance at any meeting, hearing, deposition, oral argument, *etc.*, only when reasonable and necessary, and it is presumed that trials would be occasions for their assistance.
7. Attorney shall be present and shall participate in all pretrial proceedings; provided, however, Attorney may designate an associate known to the Office of the Municipal Counselor to be competent in the defense of utility rate increase requests to attend pretrial proceedings in Attorney's place, in the event of schedule conflicts.



**APPROVED** by the City Council and **SIGNED** by the Mayor of The City of Oklahoma

City this 27TH day of AUGUST, 2024.

**THE CITY OF OKLAHOMA CITY**

ATTEST: (SEAL)

Amy K Simpson  
CITY CLERK



David Holt

**REVIEWED** for form and legality.

[Signature]

Assistant/Deputy Municipal Counselor

**Attachment “A”**

[The Retainer Agreement for Legal Services approved by the City Council of The City of Oklahoma City on August 16, 2022 (Item No. IX. CN.), as amended by Amendment No. 1 to Retainer Agreement for Legal Services approved by the City Council on August 1, 2023 (Item No. IX. BZ.), consisting of a total of eight (8) pages, follow this cover page.]

**AMENDMENT NO. 1 TO RETAINER AGREEMENT FOR LEGAL SERVICES**

This Amendment No. 1 to Retainer Agreement for Legal Services (“Amendment”) is made and entered into by and between The City of Oklahoma City, a municipal corporation (“City”), and A New Energy, LLC, an Oklahoma limited liability company (“Attorney”).

**WITNESS:**

WHEREAS, Attorney and City entered into a Retainer Agreement for Legal Services (“Agreement”) effective August 1, 2022, through June 30, 2024, for Attorney’s provision of legal services for any Oklahoma Corporation Commission and/or telecommunications/public utility matters brought to Attorney by the City’s Office of the Municipal Counselor; and

WHEREAS, Attorney and City desire to increase said Agreement’s not-to-exceed amount by One Hundred Thousand Dollars (\$100,000) primarily due to ongoing consultation and legal services being provided for Oklahoma Supreme Court Case No. CU-120707; and

WHEREAS, Attorney and City further desire to supplement Attorney’s list of attorneys and hourly rates set forth in said Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, Attorney and City agree to amend Article III of the Agreement as follows:

**III. EXPENSES**

1. The City agrees to reimburse Attorney in full for reasonable and necessary expenses (inclusive of billed hourly rates) up to an amount not to exceed the total amount of ~~One Hundred Fifty Thousand Dollars (\$150,000)~~ Two Hundred Fifty Thousand Dollars (\$250,000), and subject to the conditions hereof, unless higher limits are provided in a supplemental agreement upon a showing of sufficient cause. These expenses shall be separately itemized on Attorney’s monthly statement. The ~~\$150,000~~ \$250,000 not-to-exceed limit shall not apply to court reporter fees and expert witness fees which shall be paid directly by the City.
2. Attorney shall prepare and submit itemized statements to the City through the Office of the Municipal Counselor on a monthly basis.
3. Attorney shall bill at the following hourly rates:

Jim Roth	\$400
Eric Davis	\$350
Lindsey Pever	\$300
Niles Stuck	\$300
<u>Peter Wright</u>	<u>\$250</u>

All other provisions of the Agreement shall remain in full force and effect.



**APPROVED** by the City Council and **SIGNED** by the Mayor of The City of Oklahoma

City this 1ST day of AUGUST, 2023.

**THE CITY OF OKLAHOMA CITY**

ATTEST: (SEAL)

Amy K Simpson  
CITY CLERK



David Holt

**REVIEWED** for form and legality.

[Signature]

Assistant/Deputy Municipal Counselor

**Attachment “A”**

[The original Retainer Agreement for Legal Services approved by the City Council of The City of Oklahoma City on August 16, 2022 (Item No. IX. CN.), consisting of four (4) pages, follows this cover page.]

**RETAINER AGREEMENT FOR LEGAL SERVICES**

This Retainer Agreement for Legal Services (“Agreement”) is made and entered into by and between The City of Oklahoma City, a municipal corporation (“City”), and A New Energy, LLC, an Oklahoma limited liability company (“Attorney”).

**WITNESS:**

In consideration of the mutual covenants and agreements hereinafter set forth, the City and Attorney agree as follows:

**I. COMMENCEMENT AND TERMINATION**

This Agreement shall become effective on August 1, 2022, and shall remain in full force and effect through June 30, 2024, subject to annual budget appropriation. This Agreement may be terminated before the end of the term:

1. By mutual consent of the City and Attorney; or
2. Thirty (30) days from the date written notice is received by either party from the other; or
3. Should funding for the Agreement become exhausted in full.

Should the City withdraw, for whatever reason, the coverage/funding for the City’s representation, the City agrees that all legal fees and costs incurred under this Agreement by Attorney will be covered and paid and further funding will be authorized and paid until Attorney has obtained permission by the Court to withdraw as attorney of record for the City, if applicable.

**II. LEGAL SERVICES**

Attorney has provided consultant services to City regarding an Oklahoma Corporation Commission matter (No. PUD-202100164) and telecommunications matters by retainer agreements entered into on April 1, 2022, and July 27, 2022, respectively. It is anticipated that the retainers for said agreements have and/or will become exhausted and the Attorney hereby agrees, upon the exhausting (or termination otherwise) of said previous respective agreements, to provide continuing legal services pursuant to this Agreement relating to any Oklahoma Corporation Commission and/or telecommunications/public utility matters brought to Attorney by the City’s Office of the Municipal Counselor. Attorney agrees to perform all necessary legal services on behalf of the City subject to the following conditions:

1. Attorney shall obtain prior approval of the Municipal Counselor of the City, or his designee, for any travel expenses in excess of \$500 or any other single item expense in excess of \$1,500.

2. Whenever practicable, copying of depositions, transcripts, or other case-related documents shall be performed by the Municipal Counselor, or designee, and provided to Attorney or the requesting party.
3. Attorney and the Municipal Counselor, or designee, shall share legal research and discovery materials.
4. Attorney shall maintain communication and coordinate with the Municipal Counselor, or designee, on all discovery and trial preparation regarding any matter Attorney has been asked to pursue.
5. Attorney shall coordinate with the Municipal Counselor, or designee, for discovery and trial preparation and shall be co-counsel in any case(s) relating to this Agreement.
6. Attorney shall not bill the City for the attendance of more than one attorney or associate at any one meeting, hearing, deposition, oral argument, *etc.* For billing purposes, Attorney shall have associate attorney(s) or legal assistant(s) in attendance at any meeting, hearing, deposition, oral argument, *etc.*, only when reasonable and necessary, and it is presumed that trials would be occasions for their assistance.
7. Attorney shall be present and shall participate in all pretrial proceedings; provided, however, Attorney may designate an associate known to the Office of the Municipal Counselor to be competent in the defense of utility rate increase requests to attend pretrial proceedings in Attorney's place, in the event of schedule conflicts.

### **III. EXPENSES**

1. The City agrees to reimburse Attorney in full for reasonable and necessary expenses (inclusive of billed hourly rates) up to an amount not to exceed the total amount of One Hundred Fifty Thousand Dollars (\$150,000), and subject to the conditions hereof, unless higher limits are provided in a supplemental agreement upon a showing of sufficient cause. These expenses shall be separately itemized on Attorney's monthly statement. The \$150,000 not-to-exceed limit shall not apply to court reporter fees and expert witness fees which shall be paid directly by the City.
2. Attorney shall prepare and submit itemized statements to the City through the Office of the Municipal Counselor on a monthly basis.
3. Attorney shall bill at the following hourly rates:

Jim Roth	\$400
Eric Davis	\$350
Lindsey Pever	\$300
Niles Stuck	\$300

**IV. MISCELLANEOUS PROVISIONS**

1. Attorney is an independent contractor and not an employee of the City.
2. Attorney shall defend, indemnify, and save harmless the City from any and all claims and causes of action against the City for damages or injury to any person or property arising solely out of, or in connection with, the negligent performance or negligent acts of Attorney or employees of Attorney under the terms of this Agreement.
3. Attorney shall maintain professional liability insurance acceptable to the Municipal Counselor with appropriate and adequate coverage. Attorney shall promptly advise the City if the insurance is cancelled or lapses. Proof of insurance shall be provided to the Office of the Municipal Counselor within ten (10) days of the Agreement being approved by the City.
4. This Agreement may be amended in writing by mutual consent of the parties.
5. Settlement possibilities should be identified and considered early and at subsequent stages in the proceedings. Attorney must promptly report settlement overtures. Cases may be settled only with the prior written approval of the City and appropriate officials subject to the Open Meeting Act and the Open Records Act of the State of Oklahoma.

APPROVED by Attorney this 10<sup>th</sup> day of August, 2022.

By: *Jim Roth*  
 Jim Roth, President  
 A New Energy, LLC  
 P.O. Box 18904  
 Oklahoma City, OK 73154  
[jimroth405@gmail.com](mailto:jimroth405@gmail.com)  
 (405) 514-7684

STATE OF OKLAHOMA            )  
   ) SS.  
 COUNTY OF OKLAHOMA        )

Before me, a notary public in and for said County and State, on this 10 day of August, 2022, personally appeared Jim Roth, as the President of A New Energy, LLC, to me known to be the identical person who executed the within and foregoing instrument.



My Commission expires: 11/10/2022

*Kelly Monica*                    08011465  
 Notary Public                        Commission No.

**APPROVED** by the Council and **SIGNED** by the Mayor of The City of Oklahoma City  
this 16th day of August, 2022.

**THE CITY OF OKLAHOMA CITY**

ATTEST: (SEAL)

*Amy K. Simpson*  
\_\_\_\_\_  
CITY CLERK



*David Holt*

**REVIEWED** for form and legality.

*J. Kim*

\_\_\_\_\_  
Assistant/Deputy Municipal Counselor