

# DRAFT

Kathleen M. Drakulich  
kdrakulich@mcdonaldcarano.com

Reply to: Reno  
(775) 326-4369

~~July 18, 2016~~  
July 19, 2016

## Via Electronic Mail

Karl Hall  
City Attorney  
City of Reno Attorney's Office  
P.O. Box 1900  
Reno, NV 89505

**Re: *Engagement Agreement***

Dear Karl:

We are pleased that the City of Reno (“the City” or “Client” or “you”) has decided to engage McDonald Carano Wilson (“the Firm”) to provide legal representation. Experience has shown that the attorney client relationship works best when there is a formal, mutual understanding about fees, payment terms and the scope of services to be provided. This engagement letter (“Agreement”) constitutes the agreement relating to the services our firm has agreed to provide. The terms and conditions of our engagement are as follows:

### **I. Scope of Engagement**

The scope of the Firm’s engagement (the “Engagement”) involves providing legal services to the City related to its interests with respect to the rate design portion of the Sierra Pacific Power Company’s d/b/a/ NV Energy (“Sierra Pacific”) 2016 electric General Rate Case currently before the Public Utilities Commission of Nevada and designated as Docket No. 16-06006 (“Docket”) and any other legal services as you direct. The City will participate in the Docket as part of a coalition of parties (“Coalition”), all of whom share the same interests and all of whom have agreed to waive conflicts (to the extent that any exist) associated with the Firm’s representation of the Coalition as more fully set forth below in Paragraph IV. The Coalition consists of the City of Reno, Carson City, City of Sparks, Douglas County School District, Washoe County School District, Carson City School District, Reno-Tahoe International Airport, and the Reno-Sparks Indian Colony.

### **II. Personnel**

I will be principally responsible for and actively involved in the Engagement. My colleague Mr. Curt Ledford will act as co-counsel. Additional lawyers or paralegals may be involved as needed. Whenever appropriate and consistent with the proper representation of our clients, we use paralegals, investigators, junior attorneys and staff members. We believe the utilization of junior attorneys, paralegals or staff members, in consultation with and under supervision of more experienced attorneys in the firm as appropriate, enables us to maintain

economically and efficiently the high quality of our legal representation, while permitting us to avoid sacrificing the quality of our work for lower fees and to avoid assigning senior attorneys to tasks which can be performed proficiently by junior attorneys, paralegals or staff members.

### **III. Fees and Expenses**

We have estimated that the cost for representation pursuant to this engagement will be \$14,000. This fee is based on the request from the City and the Coalition that the Firm file a petition for leave to intervene in the Docket and review and report to the Coalition on the rate design issues that pertain to net energy metering that may impact the Coalition. In the event that the scope of the representation expands, the Firm and the Coalition will meet and address the request for additional work and the estimated fees for that work. The rates for miscellaneous office charges are set forth in the attached Schedule of Terms and Conditions.

Our firm has always operated on the basis that we will deliver the best possible legal services in a timely fashion and at a reasonable price; in return, we request that upon receipt of our statements, the City review the statements at that time to determine if you have any questions or comments regarding them. If so, please call us.

This engagement will not require any retainer.

### **IV. Conflict Waivers and Related Matters.**

Attorneys owe duties of loyalty and of confidentiality to their clients. It is unavoidable that, from time to time, conflicts of interest develop between or among our clients, or between clients, or former clients, and prospective clients we wish to represent. In these circumstances, we are required, to disclose the conflicts to our clients, former clients and prospective clients and consult with them and to obtain the clients' or former clients' consents before we may proceed.

#### **A. Waiver For "Permitted Adverse Representations"**

The Firm represents a broad base of clients on a variety of matters. Absent an effective conflicts waiver, conflicts of interest may arise that could adversely affect the City's ability and the ability of other clients to choose the Firm as its counsel and preclude the Firm from representing the City or other clients in pending or future matters. Given that possibility, and desiring to be fair both to the City and other clients, this Agreement will confirm our mutual agreement that the Firm may represent other present or future clients on matters other than those for which it had been or is then engaged by the City, whether or not on a basis adverse to the City or any affiliate, including litigation, legal or other proceedings or matters; and so long as such is not prohibited by law or involves claims against the City in the same or related proceedings as this Engagement (referred to as "Permitted Adverse Representation").

The City agrees that it will not assert the Firm's representation of the City or the Firm's representation any of the parties to the Coalition in the Docket as a basis for disqualifying the

Firm from representing another party now, in the future or in any Permitted Adverse Representation and agrees that this does not constitute a breach of duty.

The City understands that in addition to the Coalition, the Firm will be representing commercial and industrial entities from various industries in northern Nevada on issues in the Docket that do not pertain to the Coalition rate design issues and which are not in conflict with the Coalition. In addition, the Firm has been asked to represent SolarCity regarding the net metering issues in the rate design portion of the case, which is also not expected to impact the Coalition. The City acknowledges that these other clients will be represented by the Firm and consents to this representation. The City agrees that it will not assert the Firm's representation of these entities in the Docket as a basis for disqualifying the Firm from representing another party now, in the future and agrees that this does not constitute a breach of duty.

## **B. Affiliates and Related Parties**

Unless otherwise agreed to in writing, the Firm is only representing the City in this engagement letter and not the City's affiliates, subsidiaries, partners, joint venturers, employees, directors, officers, shareholders, members, owners, agencies, departments, or divisions. Accordingly, the Firm may be adverse to these related parties or their legal interests, unless precluded by reason of the Rules of Professional Conduct.

Based upon the disclosure of the names of persons and entities potentially involved in this matter, we have not discovered any conflict which requires further action before undertaking this limited representation, except as discussed above. Please advise us, at or before the time you return the signed copy of this letter, if you know of any other individuals or entities which may be involved in this matter. In addition, please inform us at once if you learn in the future of other persons or entities who may be involved so we can make a conflict of interest search with respect to them.

## **V. Other Terms.**

The general terms and conditions of our representation are set forth in the attached schedule of General Terms and Conditions, which are incorporated into this agreement by reference.

If this letter is satisfactory, please confirm your agreement to the terms of this engagement letter and attached schedule by signing this letter and returning it to us. A copy is also provided for your records. If this letter does not accurately reflect your understanding of the terms of our agreement, please call me promptly so that we may discuss it further.

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We recognize that you have the opportunity to obtain services from other firms, and very much appreciate that you have chosen our Firm. We will endeavor to represent you promptly and efficiently, and look forward to the opportunity of working with you.

Sincerely yours,

McDonald Carano Wilson LLP

Kathleen Drakulich  
Partner

**CLIENT'S AGREEMENT TO  
TERMS AND CONDITIONS OF REPRESENTATION**

I hereby acknowledge that I have had an adequate opportunity to review and understand the above **engagement letter and accompanying schedule of terms and conditions**, and that I am duly authorized by the City of Reno to bind it and execute this Agreement on its behalf. I further acknowledge that I have had the opportunity to consult with counsel of my own choosing prior to executing it. Therefore, on behalf of the City of Reno, I agree to be legally bound by the terms, limitations and conditions, including without limitation the conflict waivers and dispute resolution procedures, set forth therein.

Date: July \_\_, 2016.      City of Reno

By: \_\_\_\_\_  
Karl Hall

Its:      City Attorney

## GENERAL TERMS AND CONDITIONS OF ENGAGEMENT

1. Engagement: 2016 Sierra Pacific Power Company General Rate Case
2. Estimated Fees for Representation of the Coalition: \$14,000 per Paragraph III.
3. Billing Increments: We charge for our time in minimum units of 0.10 hours.
4. Billing Statements; Carrying Charges. Billing statements will normally be rendered to Client on a monthly basis. Fees will generally be billed within thirty (30) days following the month in which the services are rendered, and disbursements and other charges will generally be billed within thirty (30) to sixty (60) days after they are incurred by us. Payment is within thirty (30) days of receipt of our statement, and is not contingent upon the outcome or completion of a matter for which the firm has been engaged. The Firm does not extend credit to clients. We will waive carrying charges for this engagement. Payments will be accepted by cash, check, money order, bank draft, wire transfer and credit card.
5. No Guarantees. We must emphasize that it is impossible to provide any promise or guarantee about the outcome of your representation. Nothing in this Agreement or any statements by our staff or attorneys constitutes a promise or guarantee. Any comments about the outcome of your matter are expressions of opinion only.
6. Communication. During the course of our representation, we will endeavor to keep Client fully advised as to the status and progress of this matter and our recommendations as to an appropriate course of action in view of the facts, circumstances and issues involved. We will send copies of all material documents generated in connection with our representation, and I ask that you call the Firm, at any time, should you wish to discuss the matter, our invoices or bills, or any other aspect of this representation. If, for some reason, I am not available, another attorney in this office will generally be available and familiar with the matter sufficiently to consult with you as desired. Client agrees that all means of communication are, to some degree, susceptible to misdirection, delay or interception, and E-mail, facsimile transmissions and cellular telephone communications present special risks of inadvertent disclosure. However, in order to maximize speed, efficiency, and convenience of these methods of communication in this matter, Client consents to our use of E-mail, cellular phones, and facsimile transmissions communications in representing Client in this matter.
7. Fees Disputes. Under Nevada law, Client has the right to request arbitration of any fee dispute before a committee selected by the State Bar known as a "fee dispute" committee. By signing this Agreement, and unless otherwise agreed in writing by Client and Firm or unless otherwise decided by a Nevada court of competent jurisdiction on a motion for the award of fees, any dispute about the amount or payment of legal fees or costs in this Engagement shall be submitted for final and binding arbitration before the Fee Dispute Committee of the State Bar of Nevada ("Bar Arbitration"). Such Bar Arbitration shall determine only the issue of the amount of fees and charges properly chargeable to Client, and such Bar Arbitration shall have no effect

on any claims for affirmative relief based on alleged professional malpractice, errors or omissions, breach of contract, breach of fiduciary duty, or violation of any statute.

8. Records and File Retention. All records and files will be retained and disposed of in compliance with our policy in effect from time to time. Subject to future changes, it is our current policy not to retain records for more than seven (7) years from the date the matter is closed. Upon prior written request, we will return records to Client prior to destruction. As it is not administratively feasible to advise Client of record disposal, we recommend Client maintain its own files for reference. If Client has any questions concerning record retention, please contact us.

9. Client Responsibilities. Client agrees to cooperate with us, to keep us informed of all developments material to the Engagement (especially communication to or from other legal counsel, material undertakings, and agreements), to communicate and disclose fully all relevant matters relevant to our Engagement, to abide by this agreement, and to advise the firm concerning any disputed fee or cost charged in this matter. Our firm will rely upon materials and matters provided and communicated to us by Client, its agents, and other representatives, as well as your representations to us that arise during the course of our representation of Client in this matter. The firm undertakes no obligation or duty of independent inquiry to confirm or verify such representations and matters. It is extremely important that Client provide us with complete and accurate information on a timely basis since our representation, analysis and advice to Client will be based upon such information, and could change if factual circumstances are different.

10. Termination. Client has a right at any time to terminate our services and representation upon written notice to the Firm, and we may also terminate our services upon prior written notice at any time for any reason. Client remains liable for all unpaid charges for services provided and expenses advanced or incurred prior to the date of termination or withdrawal. If Client does not meet its obligation of timely payments or deposits under this engagement letter, we reserve the right to suspend services and/or withdraw from representation on that basis alone, subject to any required judicial, administrative, or other approvals. In the event of termination, Client agrees to take all steps necessary to free us of any obligation to perform further, including the execution of any documents (including forms for substitution of counsel) necessary to complete our withdrawal. In addition, our representation will end at the earliest of (a) Client's termination of our representation; (b) our withdrawal or termination; or (c) unless we are engaged to represent Client in other matters, upon substantial completion of our work on the Engagement whether or not we send Client a letter to confirm the termination of our representation. Unless subsequently re-engaged, we undertake no further responsibility to advise Client concerning developments which may impact your matter and the legal representation we provided to Client.

11. Miscellaneous. This Agreement is governed by Nevada law and sets forth our entire agreement for rendering professional services. It can be amended or modified only in writing. This Agreement may be signed in one or more counterparts and binds each party signing it whether or not any other proposed signatory ever executes it. If any provision of this Agreement or the application thereof is held invalid or unenforceable, the invalidity or unenforceability shall

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not affect other provisions or applications of this Agreement which can be given effect without such provisions or application, and to this end the provisions of this Agreement are declared to be severable. We are not advising Client with respect to this Agreement because we would have a conflict of interest in doing so. If Client wishes advice, Client should consult independent counsel of Client's choice.

12. Wire Transfer Information.

Nevada State Bank  
1 West Liberty  
Reno, NV 89502

Routing # 122400779  
Acct # 54201 7994

Field