



Gregory F. Cromwell	Gregory L. Girard	Cynthia A. Irvine	*Practice in WA limited to
Katerina Ehrlich*	Brian J. Hanis	Erik R. Olsen	Federal Immigration Law
Janay L. Farmer	Michael M. Hanis	Dennis J. Shanlian**	**CPA/LLM
Joanna I. Garza*	Patrick M. Hanis		

Mark W. Prothero – 1956-2014

Date: January 17, 2023

To: Board of Commissioners
Soos Creek Water and Sewer District

From: Michael M. Hanis
Patrick M. Hanis

Re: Proposal for Retainer Agreement for Legal Services

Proposal

We propose that the District replace its hourly contract with an annual retainer of \$400,000, payable in equal monthly payments. This is roughly equivalent to pre-Covid years when adjusted for inflation; and recognizes the unprecedented volume of work now facing the District.

The retainer will cover all District legal services on an essentially unlimited basis. The exceptions would be personnel; and for significant litigation at pre-agreed hourly rates. Looking forward, the annual retainer will be less than the hourly total for the same expected volume - a significant benefit to the District; and allows us to marshal our assets more efficiently - a significant benefit to our Firm.

Background

During the past year, the District has experienced major transitions – General Manager, Operations Manager, Finance Manager, DE staff, and several people in other key subordinate positions. Decades of institutional knowledge have moved on - this during a time which will be an unprecedented volume of growth, CIP and DE projects.

A resource that is critical to the District now and over the next several years is access to legal support – experienced both as to special purpose districts in general, and Soos Creek in particular.

Benefits

At present, the District must consider hourly cost each time it utilizes the District’s attorneys. While avoiding attorney fees may on its surface be prudent, it is a recipe for trouble; especially considering the volume and importance of the work over the next several years. This Proposal avoids that. It will enable the Board, Managers, and Staff to utilize our services on an on-call basis at any time, and without a concern for hourly fees. It provides a resource with decades of institutional knowledge, now that so much experience has moved on. We will be particularly valuable to Finance, Construction, and DEs. This will also make us available to Board members when they have questions or concerns. That has not always been the case.

The District will have first and unlimited priority to Mike and Annette; and secondary priority to Pat. We also have several other attorneys and staff at our disposal at the Firm, in several legal disciplines.

Mike: 40+ years as the District's legal counsel and representing other members of the industry.

Patrick: 20+ years with the Firm, with several years representing Soos as backup, and on specialty matters, and as general legal counsel for WD #90, WD #20, and several other districts on specific matters. Pat has also been a Commissioner at Lake Meridian WD for a number of years.

Annette: 40+ years as our Senior Paralegal, and specifically as to special purpose districts.

All of us have courtroom litigation experience in the District, Superior, and Appellate/Supreme Courts, both for municipalities and other clients.

Pat and I have also read water district meters and laid pipe during our pre-lawyer years, although we hope the District would not ask us to do that under this retainer...

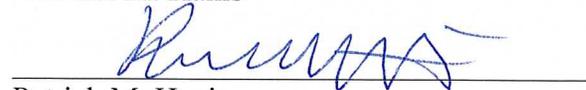
Conclusion

Enclosed is the proposed Fee Agreement and Resolution for your review. We will have backup data at the Board Meeting to answer any questions. We respectfully request the Board to approve this Proposal, to begin February 1, 2023.

It has always been an honor to represent Soos Creek Water and Sewer District.



Michael M. Hanis



Patrick M. Hanis

SOOS CREEK WATER AND SEWER DISTRICT

HANIS IRVINE PROTHERO, PLLC

RETAINER AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT is made and entered into this 2 day of March, 2023, by and between Soos Creek Water and Sewer District, a Washington Municipal Corporation, hereinafter referred to as DISTRICT, and Hanis Irvine Prothero, PLLC, a Washington Professional Limited Liability Company, engaged in the practice of law, hereinafter referred to as ATTORNEY.

Professional Undertaking. Pursuant to the terms and conditions hereof, DISTRICT does hereby retain ATTORNEY to act as its legal counsel. ATTORNEY will provide competent legal services by serving DISTRICT effectively and representing DISTRICT's interests vigorously to the best of ATTORNEY's abilities. ATTORNEY does not, however, guarantee a specific outcome of any matter assigned by DISTRICT, such outcomes often depending upon circumstances beyond ATTORNEY's or DISTRICT's control.

It is understood by the parties that ATTORNEY represents DISTRICT. This Agreement does not require ATTORNEY to conduct or provide any legal services of a personal nature for any District Commissioner, official or employee. However, ATTORNEY may choose to represent such persons on legal matters independent of DISTRICT and this Agreement, but will do so only upon notice to DISTRICT of the nature of such intended representation, and mutual agreement that such representation will not constitute a conflict with the interests of DISTRICT under the terms of this Agreement.

ATTORNEY will undertake work on behalf of DISTRICT as directed by Motion of the Board of Commissioners made at a properly called meeting thereof, or at the direction of District General Manager or its designee. Under the Rules of Professional Conduct by which ATTORNEY is governed, ATTORNEY's client must be the Board of Commissioners of DISTRICT.

DISTRICT and ATTORNEY agree that the close working relationship necessary between ATTORNEY and the employees of DISTRICT may make it inappropriate for ATTORNEY to represent DISTRICT in personnel or disciplinary matters between DISTRICT and any employee. If specifically requested by DISTRICT, ATTORNEY will assist DISTRICT as to such matters only to the extent necessary to identify issues, make such limited interim response as is reasonably necessary to protect DISTRICT's legal interests, and to assist DISTRICT, if requested, in securing legal counsel to represent its interests in such matters.

In performing any services contemplated by this Agreement, ATTORNEY will faithfully observe and comply with all federal, state, and local laws, ordinances, and regulations, as well as the Rules of Professional Conduct for licensed attorneys in the State of Washington.

ATTORNEY's required services under this Agreement include cooperation with DISTRICT in responding to any request for public records received by DISTRICT for which responsive records are within ATTORNEY's possession or control.

ATTORNEY shall not subcontract or assign any of its services required under this Agreement without DISTRICT's prior written consent.

ATTORNEY will not have responsibility for approval of bond sales, but shall aid bond counsel employed by DISTRICT, as directed, with time billed for such assistance at the rates established for litigation.

ATTORNEY shall pay all taxes, fees, and costs that are applicable to ATTORNEY attributable to the Retainer for its services under this Agreement.

Annual Retainer. DISTRICT agrees to pay for all properly instructed and assigned legal services under this Agreement for an annual retainer in the amount of \$400,000, or in amendments thereto agreed in advance by the parties, payable in equal monthly installments. ATTORNEY will advise DISTRICT of any such proposed amendments at the earliest reasonable time. Subject to timely submission of ATTORNEY's invoices, the monthly installments shall be ordered on the second voucher meeting of DISTRICT following each complete month of performance, commencing for the completed month of February, 2023, to be ordered at the second voucher meeting of March 2023. Work performed for January, 2023, has been, and will be performed and billed pursuant to the existing Legal Service Agreement. After January, 31, 2023, that Agreement is replaced and superseded by this Agreement.

In consideration of the annual retainer, Michael M. Hanis and Annette T. Bolster shall give DISTRICT'S legal matters priority over all other matters they may undertake. Patrick M. Hanis will be back-up to Michael M. Hanis, and shall make himself as available to DISTRICT as he is able, consistent with his ethical duties to his other clientele. The annual retainer shall include performance of all reasonable legal services on behalf of DISTRICT, without limitation, except for the following:

Fees for Litigation. At the joint option of DISTRICT and ATTORNEY, ATTORNEY may be retained for litigation by DISTRICT in which DISTRICT is either a Plaintiff or Defendant, and in such circumstances as an in-house attorney would typically refer to outside legal counsel in the exercise of prudent business judgment. If DISTRICT is a named Defendant in any litigation, ATTORNEY shall appear on behalf of DISTRICT, at its approved litigation hourly rate schedule, as reasonably necessary to protect DISTRICT until a Substitution of Counsel can be accomplished. If ATTORNEY is not selected for such litigation, it shall assist DISTRICT in selecting and retaining an attorney for such matters, at no cost additional to the annual retainer.

DISTRICT agrees to pay for all properly instructed and assigned litigation legal services under this Agreement at a schedule of hourly rates agreed to in advance, periodically updated, but no less often than every two years. The current hourly rate schedule, as approved by the Board, will be continued until modified. Prior to assignment of litigation services by DISTRICT, it may request from ATTORNEY a best estimate of the total fees and costs for such services. However, DISTRICT acknowledges that any such estimate is not a guarantee. An accurate prediction of total fees is not always possible as actions taken by other parties, requirements of courts or agencies, evidentiary discoveries, and other circumstances beyond the control of either DISTRICT or ATTORNEY may impact the amount of fees necessary to properly represent DISTRICT's interests in any specific litigation matter.

Costs and Expenses. Out-of-pocket costs and expenses reasonably incurred by ATTORNEY on DISTRICT'S behalf will be paid by DISTRICT. Costs and expenses will include all disbursements for court fees, witness fees, deposition costs, necessary travel (including car rentals), copying charges, and other relevant charges or office costs associated with ATTORNEY's services on behalf of DISTRICT. Such costs shall be itemized on monthly invoices, as described below.

Billing Invoices. ATTORNEY will provide DISTRICT with monthly invoices for the monthly retainer payments, identifying any portion of monthly payments for Developer Extension matters, Lien Enforcement matters, and Construction Contract matters, each of which has an income stream separate from costs impacting monthly sewer and/or water service charges, or which may be recovered by or for DISTRICT. Such matters shall be itemized by date of service, hours of work performed in 1/10th hour increments, and the amount of the retainer attributable to such service. The remaining portion of the monthly retainer will be allocated, as reasonably as possible, but without itemization, between the Water and Sewer Maintenance Accounts. Costs and expenses will be itemized. ATTORNEY will submit its billing invoices before noon on the Friday before the second Board of Commissioners meeting of each month, or upon such other schedule mutually agreed to. ATTORNEY recognizes that late submission of any billing invoice to DISTRICT may delay timely payment thereof.

Work Product. ATTORNEY will provide copies to DISTRICT of all data, documents, legal pleadings, research memoranda, letters, photographs, software applications and electronic recordings prepared by ATTORNEY for DISTRICT in the performance of this Agreement, excluding ATTORNEY's personal working notes; provided, however, that ATTORNEY shall retain custody of any materials that it must possess in its capacity as an officer of the court in the conduct of DISTRICT's litigation or other proceedings. ATTORNEY may make and permanently retain copies of all such materials for its files as is reasonably required by the standards of the legal profession.

Relationship of Parties. The parties intend that an independent attorney-client relationship will be and is created by this Agreement. No agent, employee or servant of ATTORNEY is or shall be deemed to be an employee, agent, or servant of DISTRICT except to the extent inherent in an independent attorney-client relationship. DISTRICT shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance or unemployment compensation programs, or otherwise assuming any duties of an employer with respect to any member or employee of ATTORNEY. It is understood that DISTRICT does not agree to use ATTORNEY exclusively. Further, it is understood that ATTORNEY is free to contract for performance of similar services on behalf of other entities while under agreement with; provided, however, that such service to other entities will not interfere with ATTORNEY's performance of the services to be provided under this Agreement.

Assignment or Sub-contract of Legal Work. ATTORNEY shall not assign or subcontract any of the work it is to perform under this Agreement without the prior written consent of DISTRICT.

Liability and Insurance. All consultants of DISTRICT are required to provide evidence of liability insurance. The work to be performed under this Agreement will be performed entirely at ATTORNEY's risk, and ATTORNEY assumes all responsibility for the labor and equipment used in the performance of this Agreement. At ATTORNEY's sole expense, it will obtain and maintain during the life of this Agreement insurance of the types and coverage description below:

A policy of general business liability insurance with a minimum limit of insurance of \$1,000,000. Following execution hereof, ATTORNEY shall provide a copy of the Declarations Page evidencing its current insurance meeting the requirements hereof.

Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

Professional Liability insurance appropriate to ATTORNEY's profession. Professional Liability insurance shall be written with limits no less than \$2,000,000 per claim and \$3,000,000 policy aggregate limit.

ATTORNEY's maintenance of insurance as required by this Agreement shall not be construed to limit its liability to the coverage provided by such insurance, or otherwise limit DISTRICT's recourse to any remedy available at law or in equity.

ATTORNEY shall provide DISTRICT with written notice of any policy cancellation within two business days of its receipt of such notice.

Hold Harmless/Indemnification. ATTORNEY agrees to indemnify, defend, and save harmless DISTRICT and its commissioners, officers, agents, and employees from all claims, demands or injury arising out of ATTORNEY's negligent performance under this Agreement; provided, however, that this provision does not apply to the extent that damage or injury results from the fault of DISTRICT or its officers, agents, or employees.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Firm's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

This Hold Harmless/Indemnification clause shall survive the expiration or termination of this Agreement.

Duration. This Agreement shall become effective from the date approved by Resolution of the Board of Commissioners and signed by DISTRICT General Manager, but the terms shall be retroactive to Feb 1, 2023. It shall continue until written notice of termination by either party. Either party may terminate this Agreement, with or without cause, with reasonable written notice. If terminated by DISTRICT, termination shall be effective as of any date specified in written notice to ATTORNEY. If terminated by ATTORNEY, termination shall be effective no sooner than thirty (30) days after written notice by ATTORNEY to DISTRICT, unless sooner terminated by Motion by the Board of Commissioners. Otherwise, this Agreement will remain in full effect from the date of execution.

Notice. Proper notice pursuant to the Agreement will be in writing and directed to:

DISTRICT: Jane Vandenberg
General Manager
Post Office Box 58039
Renton, WA 98058

ATTORNEY: Michael M. Hanis.
HANIS IRVINE PROTHERO, PLLC
6703 South 234th, Suite 300
Kent, WA 98032

Interpretation. If for any reason any provision or term of this Agreement is found by a court of proper jurisdiction to be invalid or unenforceable, such determination shall not affect or alter any other part of this Agreement, and the remaining provisions shall remain in full force and effect.

Waiver. A party's failure to insist on compliance or enforcement of any provision of this Agreement shall not affect the validity or enforceability nor shall it constitute a waiver of future enforcement of that provision or any other provision of this Agreement by either party.

Dispute Resolution.

If any dispute, controversy, or claim arises out of or relates to this Agreement, the parties agree first to attempt to settle the dispute by non-binding mediation with the assistance of a mutually acceptable professional mediator. The parties shall bear equally all expenses associated with the mediation, exclusive of their attorneys' fees and costs. Thereafter, any dispute, controversy, or claim not resolved by mediation may be resolved by filing suit in King County, Washington, as venue. The laws of the State of Washington shall govern this Agreement and all obligations of the parties under it.

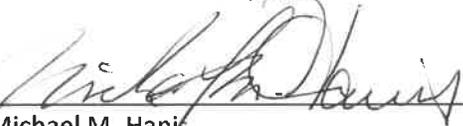
In the event either party shall bring suit against the other to enforce any provision of this Agreement, the substantially prevailing party in such suit shall be entitled to recover its costs, including reasonable attorneys' fees, incurred in such suit from the losing party.

Entire Agreement. This Agreement contains the entire agreement and understanding by and between DISTRICT and ATTORNEY with respect to the performance of services by ATTORNEY. No representations, promises, agreements or understandings not contained herein relating to such services of ATTORNEY, either written or oral, shall be of any force or effect. This Agreement may be amended at any time only by the mutual written consent and signature of the parties hereto.

IN WITNESS WHEREOF, DISTRICT and ATTORNEY have duly executed this Agreement as of the day, month and year written above.

HANIS IRVINE PROTHERO, PLLC

SOOS CREEK WATER AND SEWER DISTRICT

By: 

Michael M. Hanis
Partner

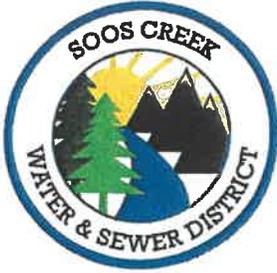
By: 

Jane Vandenberg
General Manager

By: 

Patrick M. Hanis
Partner

Approved by Resolution No. 3790-C, adopted the 1ST day of March, 2023.



SOOS CREEK WATER AND SEWER DISTRICT

KING COUNTY, WASHINGTON

RESOLUTION NO. 3790-C

A RESOLUTION of the Board of Commissioners of Soos Creek Water and Sewer District, King County, Washington, authorizing execution of Retainer Agreement for Legal Services.

WHEREAS, the District's legal counsel, Hanis Irvine Prothero, PLLC, has submitted to the Board a Proposal and a proposed Retainer Agreement for Legal Services; and

WHEREAS, the Board has reviewed the Proposal and the proposed Agreement, recognizes the major transitions at the District in Management, Finance, and Developer Extension functions; and has considered the unprecedented volume of Capital Improvement Projects and Developer Extension Projects expected over the next several years; and

WHEREAS, the Board has had the agreement reviewed and approved, with suggested modifications, by independent legal counsel (Ogden Murphy Wallace); and

WHEREAS, the suggested modifications have been incorporated into the final version of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of Soos Creek Water and Sewer District, King County, Washington, as follows:

SECTION 1: That the Board hereby finds it to be to the benefit of the public welfare of the District to enter into the proposed Retainer Agreement for Legal Services with Hanis Irvine Prothero, PLLC, with effective date of the 1ST day of February, 2023

SECTION 2: That the General Manager is hereby authorized to sign the Agreement on behalf of the District.

RESOLUTION NO. 3790-C

SUBJECT: Authorizing Execution of Retainer Agreement for Legal Services

SECTION 3: That an executed copy of the Agreement will be maintained on file at the District, and available as a Public Record.

Adopted by the Board of Commissioners of Soos Creek Water and Sewer District, King County, Washington, at a regular open public meeting thereof on the 1st day of March, 2023.

LOGAN WALLACE, President



DAROLD STROUD, Secretary

GARY CLINE, Commissioner



ALAN EADES, Commissioner



ALICE MARSHALL, Commissioner

RESOLUTION NO. 3790-C

SUBJECT: Authorizing Execution of Retainer
Agreement for Legal Services

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