

Western Regional Water Commission

STAFF REPORT

DATE: October 12, 2017
TO: Chairman and Members, Western Regional Water Commission ("WRWC")
FROM: Jim Smitherman, Water Resources Program Manager
SUBJECT: Discussion and possible of an amendment to the Agreement for Legal Services for the WRWC and the Northern Nevada Water Planning Commission ("NNWPC"), to extend the Agreement through June 2020; and, if approved, authorize the Chairman to execute an amendment to the Agreement for that purpose.

SUMMARY

Both the WRWC and the NNWPC require legal services on a regular and continuing basis. Since May 1, 2008, the required legal services have been provided on a contractual basis by Rhodes Law Offices, Ltd., a Nevada corporation solely owned by John B. Rhodes, a former Deputy District Attorney for Washoe County. The current Agreement for Legal Services expires on November 1, 2017. Mr. Rhodes is uniquely qualified to represent the WRWC and the NNWPC. He has many years of experience in local governmental law, water law, water resource planning, and the Nevada Open Meeting Law; for the ten-year period prior to his retirement from Washoe County, he served as legal counsel to the Regional Water Planning Commission ("RWPC"), predecessor to the NNWPC; and, he has provided all legal representation required by the WRWC and NNWPC since their formation.

Mr. Rhodes has offered to renew and extend the Agreement for representation of the WRWC and the NNWPC through June 30, 2020, upon the same terms and conditions, including the continuation of a 10% reduction in compensation which became effective November 1, 2011. This fee reduction is comparable to or exceeds previous compensation reductions which applied to Washoe County employees. Those compensation reductions have since been recovered by the County's employees, but will remain effective for all payments due for legal services provided commencing November 1, 2017.

PREVIOUS ACTION

On November 1, 2009, the WRWC approved an Agreement for Legal Services with Rhodes Law Offices, Ltd. (the "Agreement") for the required legal representation for a two-year period beginning November 1, 2009, and ending November 1, 2011. The Agreement included a voluntary 2.5% retroactive and prospective fee reduction in the amount of \$2,700 for the period April 1, 2009 through December 31, 2009, to coincide with compensation reductions in effect for Washoe County employees during that period of time. The retroactive portion of the 2.5% reduction was deducted from the payment due for legal services provided in November 2009.

On September 2, 2010, the WRWC approved an Amendment to the Agreement to accept a 3.0% voluntary reduction in attorney compensation, retroactive to July 1, 2010, to implement an adjustment comparable to and coinciding with the 2.84% overall reduction in total labor costs

adopted by Washoe County for the 2010/2011 fiscal year. (This reduction resulted in a savings of \$5,760 which, together with the prior voluntary reduction in the amount of \$2,700, resulted in a total discount or savings of \$8,460 over the term of the Agreement.)

On November 7, 2011, the WRWC approved a Second Amendment to the Agreement to accept a 10% voluntary reduction in attorney compensation, effective November 1, 2011. (This reduction resulted in a savings of \$39,600 which, together with the prior voluntary reductions in the amounts of \$5,760 and \$2,700, resulted in a total discount or savings of \$48,060 through July 31, 2014.)

On September 17, 2014, the WRWC approved a Third Amendment to the Agreement to continue the 10% voluntary reduction in attorney compensation agreed upon in the Second Amendment. (This reduction will result in a savings of \$46,800 from August 1, 2014 through October 31, 2017 which, together with the prior voluntary reductions in the amounts of \$5,760, \$2,700, and \$39,600 will result in a total discount or savings of \$94,860 through the termination date of the current Agreement.)

BACKGROUND

Mr. Rhodes has provided a broad scope of legal services required by the WRWC and the NNWPC, including: working closely with staff to ensure that all meeting agendas and staff reports comply with Nevada Open Meeting law and other legal requirements; providing legal representation at all public meetings of the WRWC, and its subcommittees, and the NNWPC; drafting legal documents such as interlocal agreements and contracts with planning consultants and other service providers; addressing specific Open Meeting Law and other statutory compliance issues; evaluating the propriety of proposed expenditures from the Regional Water Management Fund; coordinating and collaborating with the Truckee Meadows Regional Planning Agency on issues involving both land use and water resource planning; assessing potential liability from a risk management perspective; advising/representing the WRWC and the NNWPC on federal, state, and local legislative issues; and, providing services as a registered lobbyist at the Nevada Legislature.

In November 2011, Mr. Rhodes advised staff that he estimated, based upon his representing the NNWPC and WRWC for the prior three years that future necessary legal services for both entities would average approximately 10 to 20 hours per week and 65 hours monthly, exclusive of any civil litigation. That estimate has continued to be accurate. Over the 33-month period from November 1, 2011 through July 31, 2014, the time required for providing the required legal services ranged from 48 to 82 hours per month, for a monthly average of 66.09 hours, resulting in a corresponding average billing rate of \$163 per hour.

Over the immediately preceding 38-month period from August 1, 2014 through September 30, 2017, the time required for providing the required legal services ranged from 39 to 82 hours per month, for a monthly average of 63.68 hours, resulting in a corresponding average billing rate of \$169.60 per hour for that period, and an average billing rate of \$166 per hour for all legal services provided pursuant to the terms of the Agreement since November 1, 2011.

FISCAL IMPACT

The fiscal impact to the budget of the WRWC will be \$129,600 for each one-year period, which is \$14,400 less than initially provided for in the original Agreement, and equal to the amount currently budgeted for legal representation on an annual basis.

RECOMMENDATION

Staff and the NNWPC recommend that the WRWC approve an amendment to the Agreement for Legal Services for the WRWC and the NNWPC, with Rhodes Law Offices, Ltd., to extend the Agreement through June 2020 on the same terms and conditions.