



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-8

For the meeting of: February 9, 2016

Date: JANUARY 29, 2016

To: BOARD OF SUPERVISORS

From: JEFFREY S. BLANCK, COUNTY COUNSEL

Subject: LEGAL SERVICES AGREEMENT WITH WATER AND POWER LAW GROUP

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the Legal Services Agreement for hiring of the Water and Power Law Group to assist in water rights relating to the *1955 Trinity River Division Authorization Act*; and
2. Authorize the Chair to sign the agreement.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

On June 23, 2015, the Board of Supervisors allocated \$30,000 for a water rights attorney to review the County's options to assist the Bureau of Reclamation in releasing \$50,000 acre feet

Prepared by Jeffrey S. Blanck

CAO Approval

Amey Olsen

REVIEW

Auditor

County Counsel

Personnel

Risk Manager

Other

TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor

Seconded by Supervisor

And unanimously carried by those members present,
The Board hereby adopts the recommended action
contained in this report.

PREVIOUS ACTION/REFERRAL:

Board Order No. H-3

Meeting of: 06/23/15

Dated:

Kathy Hayes, Clerk of the Board

By:

February 9, 2016
Kathy Hayes
Tracy Vance

of water to Humboldt County as provided for in the 1955 *Trinity River Division Authorization Act*.

FINANCIAL IMPACT:

There are sufficient funds available because on June 23, 2015, \$30,000 was allocated for this in a Water Management account (1100-251).

The recommended action supports the Board's Strategic Framework as a new initiative to provide core services in ways that facilitate the establishment of local revenue sources to address local needs.

OTHER AGENCY INVOLVEMENT:

Public Works will be the primary contact with County Counsel and the Water and Power Law Group.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. Reject the contract; or
2. Board Direction.

ATTACHMENT:

1. Agreement with the Water and Power Law Group

Attachment 1

Legal Services Agreement
Between Humboldt County and Water and Power Law Group PC

Humboldt County and Water and Power Law Group PC (WPLG) hereby agree that WPLG will provide legal services on the terms set forth below.

1. **Scope of Legal Services.** The County engages WPLG to provide legal services on the issues stated in the December 22, 2015 Briefing Memorandum, "Legal consultation regarding Humboldt County's statutory entitlement and contractual right for not less than 50,000 acre-feet of Trinity River water annually." The scope does not include litigation.

2. **WPLG's Duties.** WPLG will provide those legal services required to effectively represent the County in this matter. WPLG will regularly report to the County on strategy, status, and developments. WPLG will promptly respond to the County's inquiries.

3. **Humboldt County's Duties.** The County will cooperate with WPLG and keep WPLG informed of relevant facts and developments in the performance of legal services under this Agreement. The County will pay WPLG's fees and expenses for such services as provided below.

4. **Fees.** The County will pay fees for time incurred by WPLG employees in providing legal services. Fees will be charged for all tasks reasonably required for this purpose, including research and drafting, meetings, telephone calls, emails, travel time (at one-half ordinary rate) and court appearances. Fees will be charged in increments of one-tenth of an hour.

5. **Hourly Rates.** As of the Effective Date, the following hourly rates apply:

Richard Roos-Collins, Principal	\$350/hour
Julie Gantenbein, Shareholder	\$175/hour
Paul Kibel, Water and Natural Resource Counsel	\$250/hour
Emma Roos-Collins/Tiffany Poovaiah, paralegals	\$75/hour.

These fee rates are subject to change on or after January 1, 2017 on 30 days' written notice to the County. If the County does not agree to pay such increased rates, and the County and WPLG do not reach a mutual understanding on the terms of continued representation, either may terminate the Agreement as provided in paragraph 12.

6. **Expenses.** The County will pay WPLG directly for travel and other expenses incurred to provide legal services in this matter. WPLG may engage consultants as needed for effective representation of the County in this matter; *provided* that WPLG will obtain the County's approval for any expense estimated to cost more than \$500. WPLG will pass-through all such expenses without mark-up.

7. **Billing Statement.** WPLG will send the County a monthly statement of fees and expenses incurred. The County will pay the amount due within 30 days of receipt of the

statement. If the County disputes any part of the amount due, it will provide notice to WPLG within that period, and it will pay the balance which is undisputed. WPLG may charge interest at a rate of .5% per month, or 6% per year, for any undisputed amount which is not timely paid.

8. **Dispute Resolution.** If a dispute arises about a billing statement or in any other respect under this Agreement, the County and WPLG will promptly undertake negotiation to resolve the dispute. If such negotiation does not resolve the dispute, the County and WPLG will undertake mediation before either resorts to arbitration, litigation, or any other dispute-resolution procedure.

9. **Periodic Estimate for Legal Services; Adjustment.** If instructed by the County, WPLG will estimate the fees and expenses that may be incurred in the subsequent quarter or for any other period which the County prefers. This estimate will be best professional judgment based on current and foreseeable circumstances and will not constitute a guarantee. In response to this estimate or otherwise, the County may provide an instruction regarding the amount of fees and expenses not to be exceeded in a given period. WPLG will not exceed the amount so instructed unless and until: (a) WPLG notifies the County that an adjustment may be necessary due to changed circumstances, and (b) the County and WPLG reach a mutual understanding on an adjustment. WPLG is not obliged to provide legal services if the County and WPLG do not reach a mutual understanding on an estimate or adjustment for a given period.

10. **Retainer.** By amendment to this Agreement, the County and WPLG may establish an arrangement whereby the County will pay a fixed monthly retainer to cover fees in a matter, subject to appropriate further terms (including exceptions).

11. **Attorney's Fee Award.** An award of attorneys' fees and expenses obtained against another party in a matter will first be applied to pay WPLG's outstanding fees and expenses. Award funds will next be applied to reimburse the County for their prior payments on WPLG's statements, and for other expenses that were (a) directly incurred by the County for external services (such as engagement of a consultant) and (b) covered by the award. WPLG will retain any remaining award funds. The County will not impair or waive any right WPLG may have to seek such an award against another party in this matter. Such right will not be extinguished by discharge or withdrawal pursuant to paragraph 12.

12. **Discharge or Withdrawal.** The County may discharge WPLG at any time and for any reason. WPLG may withdraw with the County's consent or for good cause. Good cause includes the County's breach of this Agreement, its non-cooperation with WPLG or its declining to follow WPLG's advice on a decision material to the representation, or any fact or circumstance that renders WPLG's continuing representation unlawful or unethical. If this Agreement terminates, WPLG will provide a final statement, which will be due and payable. Upon the County's request, WPLG will deliver to the County its file and other property in WPLG's possession.

13. **Disclaimer of Guarantee.** WPLG does not make any promise or guarantee about the outcome of the matter.

14. **Entire Agreement.** This is the entire Agreement between the County and WPLG for legal services.

15. **Amendment.** This Agreement may be amended only in written form.

16. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will be severable and remain in effect, subject to any amendment pursuant to paragraph 15.

17. **Effective Date.** This Agreement will take effect when executed by the County and WPLG.

Dated: February 9, 2016



Mark Lovelace
Chairman, Board of Supervisors
HUMBOLDT COUNTY

Dated: February 2, 2016



Richard Roos-Collins
Principal,
WATER AND POWER LAW GROUP PC