



*Dedicated to
Satisfying our Community's
Water Needs*

MEMORANDUM

Action Item **11A**

TO: Board of Directors
FROM: Paul E. Shoenberger, P.E., General Manager
DATE: September 27, 2023
SUBJECT: General Legal Counsel Services

RECOMMENDATION

- ~~a. Amend the General Legal Counsel Services agreement with Atkinson, Andelson, Loya, Ruud & Romo to revise the fee schedule, effective October 1, 2023, remove the billing cap for attendance at regular meetings of the Board of Directors, and add language to the agreement regarding support for Proposition 218.~~
- a. Amend the General Legal Counsel Services agreement with Atkinson, Andelson, Loya, Ruud & Romo to revise the fee schedule, effective October 1, 2023; remove the billing cap for attendance at regular meetings of the Board of Directors; and remove language from the agreement regarding participation in the Association of California Water Agencies Legal Affairs Committee and CalWater PAC meetings; and
- b. Direct staff to retain, within the General Manager's authority, the firm of Burke, Williams & Sorensen, LLP to participate and engage in said meetings on behalf of Mesa Water District.

The Executive Committee reviewed this item at its September 6, 2023 meeting and recommends Board approval.

STRATEGIC PLAN

- Goal #1: Provide an abundant, local, reliable and safe water supply.
- Goal #2: Perpetually renew and improve our infrastructure.
- Goal #3: Be financially responsible and transparent.
- Goal #4: Increase favorable opinion of Mesa Water.
- Goal #5: Attract, develop and retain skilled employees.
- Goal #6: Provide excellent customer service.
- Goal #7: Actively participate in regional and statewide water issues.

PRIOR BOARD ACTION/DISCUSSION

At its September 8, 2021 meeting, after an extensive selection process, the Board of Directors (Board) approved a five-year agreement with Atkinson, Andelson, Loya, Ruud & Romo (AALRR) to provide General Legal Counsel Services, and authorized the General Manager to execute the agreement.

At its July 26, 2022 Committee meeting, the Board amended the General Legal Counsel Services agreement with AALRR to revise the fee schedule, effective September 1, 2022.

DISCUSSION

AALRR currently represents Mesa Water District (Mesa Water®) as General Legal Counsel and in various legal roles.

On July 26, 2023, staff received correspondence from AALRR requesting the Board's consideration of a revised legal services fee schedule and removal of the billing cap for AALRR's attendance at regular Board meetings.

~~As part of its counsel services to Mesa Water, the District requests that AALRR accurately and consistently represent Mesa Water's Proposition 218 (Prop. 218) Policies:~~

- ~~1. — The District's Policy Position stating that water rates, fees, and other service or use charges must be based on true costs in conformance with Prop. 218 (Article XIII D of the California Constitution);~~
- ~~2. — Prop. 218 is a defense against government overreach, and protection of local control and ratemaking authority; and,~~
- ~~3. — The District's Policy Platform of maintaining Prop. 218's current provisions regarding government service assessments, fees, rates, and taxes, specifically:
 - ~~○ — the "2/3 vote" required from the legislature and voters for approval of new levies,~~
 - ~~○ — the "special benefit and proportionality requirements" provision, which directly connects the special benefits received with reasonable proportionate costs, and ensures that assessments imposed for property-related (water) services must not exceed the proportional cost of the services attributable to the parcel, and~~
 - ~~○ — transparent rate setting procedures that protect consumers from potential government overcharge by providing ample opportunities for consumer participation and the ability for consumers to protest illegal rates.~~~~

~~Staff recommends removing language from its agreement with AALRR, in particular Item 5 of Appendix One of the Scope of Services, that reads as follows:~~

~~*Counsel shall actively participate and engage in the Association of California Water Agencies Legal Affairs Committee and CalWater PAC meetings as requested or directed.*~~

~~Staff further recommends that the Board direct staff to retain, within the General Manager's authority, the firm of Burke, Williams & Sorensen, LLP to participate and engage in said meetings on behalf of Mesa Water District.~~

FINANCIAL IMPACT

In Fiscal Year 2024, \$400,000 has been budgeted for Legal Services; \$38,275 has been spent to date with Atkinson, Andelson, Loya, Ruud & Romo.

ATTACHMENTS

Attachment A: Atkinson, Andelson, Loya, Ruud & Romo Correspondence

Attachment B: [Revised](#) Draft Amendment to Professional Services Agreement