

Agenda Item: 6.A.

## MEMORANDUM

TO: Financial, Expenditure and Legal Subcommittee

SUBJECT: District Legal Services

DATE: April 28, 2017

FROM: John Winkler, General Manager

The District currently has an agreement with Husch Blackwell, District Legal Counsel, which outlines the scope of services, terms of agreement for services, etc.

Per the attached letter from District Legal Counsel, the District entered into an agreement for legal services in May 2014 for a two year period.

It is proposed that the District enter into a new agreement for the provision of legal services with Husch Blackwell, as attached; for a period of one year beginning on July 1, 2017 to June 30, 2018.

**Therefore, Management recommends that the Subcommittee recommend to the Board of Directors, that the Board approve the proposed legal services agreement with Husch Blackwell, per the terms and conditions outlined in said agreement, for a period to begin upon execution of agreement from July 1, 2017 to June 30, 2018 subject to changes deemed necessary by the General Manger and approval as to form by District Legal Counsel.**

# HUSCH BLACKWELL

Harold "Hal" Daub  
Partner

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December 5, 2016

Papio-Missouri River Natural Resources District  
Att: Mr. John Winkler, General Manager  
8901 So. 154th St.  
Omaha, NE 68138

Re: Agreement For Legal Services

Dear John:

You will recall that the engagement letter for legal services submitted on April 29, 2014 was subsequently, by the Board, voted to be a 2 year engagement rather than 1 year as was originally proposed.

I am enclosing an executed copy of the April 29, 2014 engagement which you signed on May 8, 2014 and it would appear that we need to formalize our engagement for another 2 years and so I am enclosing an identical copy.

How would you like to proceed?

Best regards,

HUSCH BLACKWELL

By:   
Harold "Hal" Daub

HJD:rmw

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Att: Mr. John Winkler, General Manager  
8901 So. 154th St.  
Omaha, NE 68138

Re: Agreement For Legal Services

Dear Mr. Winkler and Members of the Board:

Thank you for selecting Husch Blackwell LLP to provide legal services. This letter is to confirm our discussion about the engagement and to set forth the terms under which we will provide the requested services.

**Client and Scope of Representation.** Our client for this engagement will be Papio-Missouri River Natural Resources District. It is understood that, in the absence of written agreement to the contrary, our work in connection with this engagement shall not be considered to create an attorney-client relationship between us and any other persons or entities related to Papio-Missouri River Natural Resources District, including parents, subsidiaries, shareholders, partners, members, or other affiliates, and thus our sole client for this engagement shall be Papio-Missouri River Natural Resources District. We will not consider entities affiliated with Papio-Missouri River Natural Resources District as our clients for the purpose of checking future conflicts of interest.

We are being retained to provide general legal services and representation to the Papio-Missouri River Natural Resources District, as directed by the Board of Directors acting through the General Manager. In the event that we are asked to provide additional services, we will confirm such engagement in writing. Absent specific modification, any additional services will be governed by the terms and conditions of this agreement.

**Conflicts.** As we have discussed, Husch Blackwell LLP has offices in a number of cities, and we represent many clients on a regional or national basis. It is possible that some of our present or future clients will have disputes with Papio-Missouri River Natural Resources District during the time we are providing legal services. Therefore, as a condition to our undertaking this engagement, you have agreed that our firm may continue to represent or undertake in the future to represent existing or new clients whose interests are adverse to yours in matters, including litigation matters, that are not substantially related to the matters as to which we are representing

you. You have agreed that the validity and enforceability of this unrelated matter conflict waiver is an essential condition to the firm's willingness to accept this engagement, and the firm would not have accepted the engagement but for this waiver. Accordingly, you agree that, if the validity or enforceability of this waiver is ever challenged or revoked, we may withdraw from representing you and continue to represent our other clients even in matters directly adverse to Papio-Missouri River Natural Resources District. We agree, however, that your prospective consent to conflicting representation shall not apply in any matter substantially related to a matter in which we have provided legal services to Papio-Missouri River Natural Resources District.

**Fees and Expenses.** Our fees are based on the amount of time we are required to devote to a project, multiplied by the appropriate hourly rate shown on the rate schedule for our firm's attorneys or Practice Groups, without value-billing being used. We will always be willing to provide estimates of fees or costs on matters when requested. The firm's fee schedule is available for review and the set fees, normally by the first of March each year and fixed for that following approximately 12 month period of time, are available for examination at the firm's Omaha office by an employee or Board Member of the Association.

Hal Daub and his successors approved by the District will be the firm's attorney responsible for this engagement and reporting to the District, but other attorneys and legal assistants, determined by such responsible attorney with approval of the District, may assist with the engagement.

In litigation and other matters involving computerized documents or voluminous evidentiary material, the firm may also use the services of its Practice Support Group to meet the demands of electronic discovery and document management using the latest technological tools. The services provided by the firm's Practice Support Group require significant expertise. Services may include coordination and consultation of discovery materials, development and hosting of document review databases, and the preparation and presentation of electronic evidentiary materials at trial. The hourly rates for these individuals range from \$130-\$270. Additionally, it is the firm's policy to bill for providing responses to audit letter requests. Should this type of work materialize, we charge a flat rate of \$250 - \$2,000 based on the complexity of the request and the resources required to respond to the request.

We will bill on a monthly basis for our professional fees and for reimbursement of expenses incurred in connection with this engagement. A schedule of our charges for various services and incidental items is attached. We will generally not pay the fees and expenses of other service providers, such as consultants, local counsel, deposition reporters, experts, and the like, but will forward those bills directly to you for payment.

Payment shall be due upon receipt of our statement. If we do not receive comment about the statement within thirty days of the date it is mailed, we will assume you have reviewed the statement and find it acceptable. Statements not paid within sixty days of mailing will be subject

to a late charge of 1% per month on the unpaid balance, commencing from the date of the statement and continuing until paid. If a statement remains unpaid for more than ninety days, we may, consistent with our ethical obligations and judicial requirements, cease performing services for you until arrangements satisfactory to us have been made for payment of arrearages and future fees. You agree that, in such an event, we have the right to withdraw as your attorneys from any matter or proceeding in which we may be engaged.

**Deposit.** It is our standard practice to require an advance deposit from a new client and for each new significant matter. However, in connection with this engagement, we waive this requirement. You have agreed to pay our monthly invoices on a current basis.

**Communications.** We understand that we are to report to and take direction from the Papio-Missouri River Natural Resources District General Manager or his Designee for this engagement. If you should prefer that we report to some other person, please let us know. We understand that you have approved the use of internet e-mail for communications concerning this matter. Our state ethics rules suggest that we remind you that the internet does not provide a totally secure method of communication, and e-mail may be copied and held by any computer through which it passes. Persons not participating in the communication may intercept e-mails, and e-mails stored on computers may be accessed by unauthorized parties. If you would prefer that we not communicate with you via e-mail, please advise me immediately.

**Marketing Materials.** Periodically, our firm prepares marketing materials in which we include the names and corporate logos of selected clients and sometimes a brief description of a significant project on which we worked. You agree that we may do so with regard to you and any matters we handle for you at this time or in the future. If we include our representation of you in these materials, we will not include information about any specific transaction that is not otherwise publicly available without your prior approval.

**Document Retention.** Some materials related to our representation of you (e.g. administrative records, time and expense reports, personnel materials, and credit and accounting records) belong to us and will be handled in accordance with our document retention policy. Other materials (i.e. documents provided to us by you and the final version of documents that you retain us to create) are considered client files and belong to you. We will retain your client file for ten years or such longer period as required by statute or our firm's document retention policy. At your request, we will return your file to you or any other person designated by you. If, at your request, we retain your client files beyond their normal period of retention, such long-term storage will be at your cost. If you have not requested that we return your file or made arrangements for long-term storage, we may destroy or otherwise dispose of your client files after the retention period.

**Conclusion of Representation.** Our relationship with you will be concluded when we have completed our agreed-upon services. In addition, and without limiting the preceding

sentence, in the event we have performed no work for you on your behalf for six consecutive months, you agree that our attorney-client relationship with you will be terminated.

It is understood that the terms of this letter and its enclosures constitute the terms under which we will undertake this representation. If you find the proposed engagement terms acceptable, please execute and return a copy of this letter for our file. If you do not agree to any of the terms of this letter and its enclosures, please call me as soon as possible within the next ten days to discuss. If I do not hear from you, it is understood that these are the terms of our representation.

Thank you again for selecting us for this engagement. We look forward to working with you.

Best regards,

HUSCH BLACKWELL

By: \_\_\_\_\_  
Harold "Hal" Daub

HJD:rmw

AGREED:

Papio-Missouri River Natural Resources District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**SCHEDULE OF CHARGES FOR INCIDENTAL SERVICES**  
**Effective 12/1/2013**

This schedule identifies charges that will be added to our invoices for incidental services we provide and costs we incur in connection with our legal services. If we have reached a separate written agreement with you concerning any of these charges, the terms of that separate agreement will prevail over any conflicting provisions of this schedule.

**Document Processing Services**

Paper (Black and White)

\$0.15 per page

Paper (Color)

\$0.25 per page

No charges for paper documents  
under 20 pages

**Computer Legal Research Costs**

Online research may be charged at  
up to 95% of the vendor's  
transactional/retail rates, when  
applicable

**Postage, Couriers and Delivery Services**

Large mailings, certified or express  
delivery services are billed to client  
at actual costs

**Internal Messengers Services**

In-House Messengers charges are  
billed at \$60 per hour, in 6 minute  
increments

**Video Conferencing**

Husch Blackwell initiated; 2 locations

\$100 per hour/per location: prorated  
based on actual minutes used

Husch Blackwell initiated; each additional location

\$100 per hour/per location: prorated  
based on actual minutes used

Non Husch Blackwell initiated; each additional location

No Charge

**SCHEDULE OF CHARGES FOR PRACTICE SUPPORT SERVICES**  
**Effective 1/1/2014**

This schedule identifies charges that will be added to our invoices for services we provide for practice support and costs we incur in connection with those services. If we have reached a separate written agreement with you concerning any of these charges, the terms of that separate agreement will prevail over any conflicting provisions of this schedule. Occasionally we may outsource these services based on time deadlines and resources available. The actual vendor cost for outsourced services will be passed directly to you with no cost increase or markup.

**Scanning**

Black & White, Letter & Legal Paper	
Light Handling	\$0.06 per page
Medium Handling	\$0.09 per page
Extensive Handling	\$0.13 per page
Color	\$0.20 per page

**Objective Coding**

\$0.05 per field

**Printing from Summation, Concordance or Relativity**

Black and White, Letter & Legal Paper	\$0.06 per page
Color	\$0.25 per page

**OCR Processing**

\$0.02 per page

**Electronic Bates Numbering**

\$0.02 per page

**Format Conversion (Example: TIFF to PDF)**

\$0.02 per page

**Electronic Discovery Data – NUIX Early Case Assessment**

\$55.00 per compressed gigabyte -  
minimum fee \$200.00 (prorated)

**Electronic Discovery Data Processing**

\$175.00 per hour (prorated)

**Electronic Document Production**

\$0.05 per page

**Loading and update to Summation or Concordance**

\$85.00 per data load

**Loading and update to Relativity**

\$175.00 per data load

**Media Services**

CD/DVD Creation/Duplication	\$10.00\CD \$20.00\DVD
Flash Drive 4 Gigabyte	\$10.00 per Drive
Flash Drive 16 Gigabyte	\$20.00 per Drive
Flash Drive 32 Gigabyte	\$35.00 per Drive
Synchronizing of Text to Video	\$25.00 per Video Hour (prorated)

**Offsite presentation and hardware equipment rental**

Please see cost detail for complete list

**Hosting of internal databases**

No Charge

**Relativity outside user access**

\$75.00 Per User Per Month

**Paper and electronic file storage during engagement**

No Charge

**Paper file storage following conclusion of engagement**

\$0.17 per bankers box per month

**Electronic file storage following conclusion of engagement**

\$50.00 per gigabyte per year (prorated)

**Audit Letters**

\$250.00 - \$2,000.00