

**Agenda Item: 6.**

## **Memorandum**

**To: Personnel, Legislative and Public Affairs Subcommittee**

**Re: Legislative Representative Contract Renewal**

**Date: June 1, 2012**

**From: John Winkler, General Manager**

The current one year contract between the Papio Missouri River NRD and Husch Blackwell Sanders expires on June 30, 2012. Husch Blackwell Sanders proposes to enter into a new one year contract with the District beginning July 1, 2012 thru June 30, 2013 for fixed monthly payment of \$6,000.00.

Per the attached Terms of Engagement-Renewal letter Husch Blackwell Sanders would continue furnishing intergovernmental representation and professional lobbying services to the District with respect to legislative matters of interest before the Nebraska Unicameral and the Executive Branch for the period of July 1, 2012 to June 30<sup>th</sup> of 2013.

Per the Client Scope and Representation of the proposed engagement proposal the District will once again be faced with a myriad of legislative challenges for not only the next legislative session but well into the foreseeable future. The District will once again be challenged on the issues of eminent domain, bonding authority; the filling of vacancies on the Board of Directors, construction and financing of recreational projects and possibly the very existence of NRD's themselves. Therefore, it is imperative that the District retain a professional presence not only in Lincoln but throughout the District to interface with the legislature, local elected and appointed officials and the executive branch on a consistent and professional basis.

**Management recommends that the subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed contract with Husch Blackwell Sanders, LLP, for the provision of intergovernmental and professional lobbying services per the terms and conditions outlined in the attached agreement.**

# HUSCH BLACKWELL

Hal Daub  
Partner

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April 30, 2012

Mr. John Winkler  
General Manager  
Papio-Missouri River Natural Resources District  
8901 So. 154th St.  
Omaha, NE 68138-3621

Re: Agreement For Legal Services

Dear John:

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 legal and legislative consultation and representation regarding:

1. Likely reintroduction of legislation regarding NRD bonding authority, restrictions on the uses of bonding levy authority, board organization and operations. We will monitor, report, field questions of, and provide information and education to, senators and their staff regarding legislation being considered, drafted or proposed;
2. Serve as a resource and provide legal and legislative consultation regarding issues involving compliance, political subdivision authority and funding sources regarding the federal Clean Water Act and storm water run-off;

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3. Communication with local political subdivisions as directed, and other key individuals and organizations that impact on NRD issues;

4. Monitor progress of, report activities associated with and provide appropriate information regarding legislative interim studies, including:

LR495, sponsored by Senator Mello, which proposes to study the flood control needs of the City of Omaha and the greater Omaha metropolitan area and examine the resources that are available or that may be utilized to meet such needs, including compliance with various federal agency mandates.

LR482, sponsored by Senator Mello, which proposes to examine the use of eminent domain by political subdivisions for the development of recreational trails. This study may provide opportunity for review and evaluation of the reasonableness and practical effect of past legislation in this area.

LR539, sponsored by Senator Schilz, which proposes to study ways in which to manage water resources including groundwater recharge.

LR556, sponsored by Senator Carlson, which proposes to examine state groundwater policy.

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.

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**Fees and Expenses.** Our fees are based on the amount of time we devote to a project for work not covered by this monthly retainer agreement. Any estimates of fees that we may give from time to time are based on judgment of the circumstances at a given time, and actual fees may be more or less than the estimated amount. Any estimate of fees or costs we provide thus may not be considered as a minimum, maximum, or fixed fee quotation.

I will be the responsible attorney for this engagement but other attorneys and legal assistants may assist with the engagement. We ask that you agree that we may use such personnel as is appropriate in our professional judgment. Our hourly rates for attorneys range from \$220 to \$610 for partners of the firm and \$160 to \$340 for associates. The Firm also employs legal assistants and other professionals in a variety of specialties, and their rates range from \$80 to \$310. Our hourly rates are reviewed and adjusted periodically. Adjusted rates will be applicable to any work done after the effective date of the adjustment.

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 technical expertise, and include the development, evidentiary matters, coordination of the production of documents from electronic databases, and the preparation and presentation of electronic evidentiary materials at trial. The hourly rates for these individuals range from \$115 to \$250.

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.

**Retainer.** It is our standard practice to require an advance deposit from a new client and for each new significant matter. In connection with this engagement, however, this retainer will be waived. You have agreed to pay our monthly invoices on a current basis, and the deposit shall be applied to the outstanding balance upon the conclusion of our representation or, at our option, to satisfy delinquent monthly statements. We reserve the right to request further

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reasonable deposits if the initial payment is used to satisfy prior invoices. Any unused portion of the deposit will be refunded at the conclusion of the representation. Specific work or projects not covered by this scope of services shall be billed separately, as agreed by and between the parties.

All consulting and advocacy work as detailed in the Scope of Work will be included in the \$6,000.00 fixed flat fee monthly retainer and is to continue for twelve (12) consecutive months beginning July 1, 2012 and concluding on June 30, 2013, unless canceled by written notice at least 30 days prior to the desired termination of services date indicated in such written notice. In no event may this agreement, if terminated by notice, be terminated during any period of time in which the Nebraska Legislature is in session. This agreement may be extended on terms and conditions mutually agreed upon, in writing, by and between the parties. All additional work shall, not covered by the agreement, be negotiated at hourly rates or by additional retainer fees.

**Communications.** We understand that we are to report to and take direction from John Winkler, General Manager, 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.

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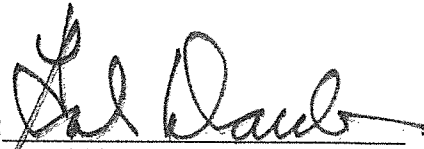
**Conclusion of Representation.** Our relationship with you will be concluded when we have completed our agreed-upon services. In addition, and without limiting the preceding sentence, in the event we have performed no work for you on your behalf for six consecutive months, you agree that our attorney-client 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.

Very truly yours,

HUSCH BLACKWELL LLP

By:   
Harold "Hal" Daub

HJD:rmw

AGREED:

Papio-Missouri River Natural Resources District

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

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

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

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

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## SCHEDULE OF CHARGES FOR INCIDENTAL SERVICES Effective 1/16/2012

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)	\$0.30 per page
	No charges for paper documents under 20 pages

### **Long distance telephone calls**

Domestic Calls	\$0.10 per minute
International Calls	\$0.25 per minute
	No charge for calls under 5 minutes

### **Computer-assisted legal research Westlaw and Lexis**

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

### **3<sup>rd</sup> party couriers and delivery**

Charges to client are billed to client at courier's standard charge

### **Internal Messengers/Couriers/Delivery**

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

### **Outgoing faxes**

\$1.00 per page, plus long distance charges if applicable

### **Incoming faxes**

No Charge

### **Postage**

No Charge for mailings under \$1.00

### **Secretarial overtime**

Secretaries will be billed at a rate of \$35.00 per hour

### **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

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## SCHEDULE OF CHARGES FOR PRACTICE SUPPORT SERVICES

Effective 1/16/2012

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

\$0.25 per page

### **Printing from Summation or Concordance**

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: TIF to PDF)**

\$0.02 per page

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

\$30.00 per compressed gigabyte -  
minimum fee \$200.00 (prorated)

### **Electronic Discovery Data Processing**

\$160.00 per hour (prorated)

### **Electronic Document Production from Summation or Concordance**

\$0.09 per page

### **CD/DVD loading and update to Summation or Concordance**

\$75.00 per CD/DVD

### **Media Services**

CD Creation/Duplication

\$10.00 per CD

DVD Creation/Duplication

\$20.00 per DVD

Digitizing of Video

\$35.00 per DVD/CD

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

### **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 Tier 1**

\$500.00

### **Audit Letters Tier 2**

\$750.00

### **Audit Letters Tier 3**

\$1,500.00