

Mem # 4-4

**City of Carson City
Agenda Report**

Date Submitted: April 13, 2007

Agenda Date Requested: 5/3/2007

Time Requested: Consent

To: Board of Supervisors

From: Linda Ritter, City Manager

Subject Title: Action to approve an Engagement Letter for outside legal services from Woodburn and Wedge, Attorneys, for work associated with review of any and all agreements associated with Vidler Water Company.

Staff Summary: The District Attorney has approved seeking outside legal services from a law firm specializing in water law for services associated with review of any agreements that may come forward as a result of the Teaming Agreement with Vidler Water Company. The District Attorney will work in cooperation with Dale E. Ferguson, an attorney in the firm of Woodburn and Wedge in reviewing possible changes to the Teaming Agreement and any future agreements that are proposed as a result of the Teaming Agreement.

Type of Action Requested: (check one)
 Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve an Engagement Letter for outside legal services from Woodburn and Wedge, Attorneys, for work associated with review of any and all agreements associated with Vidler Water Company.

Explanation for Recommended Board Action: Laws associated with water in the State of Nevada can be very complicated and are considered a specialized area of the law. For that reason, it is prudent to engage the services of an attorney that specializes in water law to review all agreements associated with Vidler Water Company.

Applicable Statue, Code, Policy, Rule or Regulation: n/a

Fiscal Impact: Unknown, depending on the amount of work required.

Explanation of Impact: Hourly rates for Mr. Ferguson are \$245 / hour

Funding Source: Sewer or Water Utility Fund

Alternatives: Do not approve and utilize only the District Attorney's Office legal services.

Supporting Material: Engagement Letter from Woodburn and Wedge

Prepared By: Linda Ritter

Reviewed By:

(Department Head)

(City Manager)

(District Attorney)

Date:

Date:

Date:

4/23/07

4/24/07

4-24-07

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)

GORDON H. DIPAOLI
JOHN F. FOWLER
JOHN F. MURTEA
STEPHEN S. KENT
NICHOLAS F. FREY
W. CHRIS WICKER
SHAWN B. MEADOR
R. BLAIN ANDRUS
DON L. ROSS
GREGG F. BARNARD
DALE E. FERGUSON
RANDY A. DRAKE
SHAWN G. PEARSON

WOODBURN AND WEDGE
ATTORNEYS AND COUNSELORS AT LAW
5600 NEIL ROAD
SUITE 300
RENO, NEVADA 89511
PO. BOX 2311, RENO, NV 89505
775/688-3000
FACSIMILE (775) 688-3088

DANE W. ANDERSON
MICHAEL W. KEANE
JOHN E. KEUSCHER
SHARON M. PARKER
JESSICA S. HANSON
JILL M. VACCHINA
BRENOCH R. WIRTHLIN

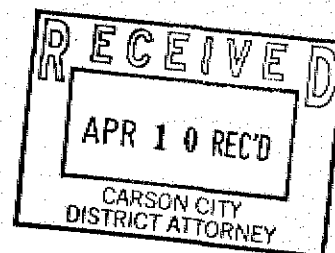
WILLIAM E. WOODBURN (1916-1989)
VIRGIL H. WEDGE (1912-2000)
CASEY W. VLAUTIN (1938-2001)

OF COUNSEL
JAMES J. HALLEY

April 6, 2007

Via U.S. Mail and Facsimile (775) 887-2129

Edward L. Oueilhe, III
Senior Deputy District Attorney
Civil Division
Carson City, Nevada
885 East Musser Street
Carson City, Nevada 89701



Re: **Carson City, Nevada / Vidler Water Company Water Resources Agreements**

Dear Mr. Oueilhe:

Pursuant to our recent telephone conversations, please find enclosed a proposed engagement letter in connection with our anticipated representation of Carson City, Nevada. We will commence work in accordance with the terms and conditions present in the engagement letter after receiving the signature page executed by an authorized representative of Carson City. Thank you for selecting Woodburn and Wedge to provide legal services to Carson City with regard to the matters referenced above.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Dale E. Ferguson".

Dale E. Ferguson

DEF/cm

Enclosure

CORDON H. D'PAOLI
JOHN P. FOWLER
JOHN F. MURTHA
STEPHEN S. RENT
NICHOLAS F. FREY
W. CHRIS WICKER
SHAWN B. MEADOR
R. BLAIN ANDRUS
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JILL M. VACCHINA
BRENOCH K. WIRTHLIN
—
WILLIAM K. WOODBURN (810-1989)
VIRGIL H. WEDGE (812-2000)
CASEY W. WLAUTIN (838-2000)
—
OF COUNSEL
JAMES J. HALLEY

April 6, 2007

Edward L. Oueilhe, III
Senior Deputy District Attorney
Civil Division
Carson City, Nevada
885 East Musser Street
Carson City, Nevada 89701

Re: Representation of Carson City, Nevada

Dear Mr. Oueilhe:

You have asked our firm to represent Carson City, Nevada ("Carson City") in connection with issues related to certain existing and potential future agreements involving water resources between Carson City and Vidler Water Company, Inc. We appreciate Carson City's choice of our firm and look forward to representing Carson City with respect to these matters.

We accept engagement by Carson City based on the understandings contained in this letter. This letter is intended, once fully executed, to constitute a binding agreement between Woodburn and Wedge ("Woodburn") and Carson City relating to the services that Woodburn agrees to provide Carson City. Experience has shown that the attorney-client relationship works best when a mutual understanding exists between attorneys and their clients about the scope of services to be rendered and about fees and payment terms.

Scope of Services

Woodburn agrees to represent Carson City, Nevada in connection with issues related to certain existing and potential future agreements involving water resources between Carson City and Vidler Water Company, Inc. Unless we are otherwise instructed in writing by Carson City, we will communicate with, and take assignments and direction from, you or other attorneys in your office. It is our expectation that you will communicate specific assignments to us as necessary. When requested, Woodburn will provide services of a strictly legal nature of the kind generally described

in this engagement letter. You will provide Woodburn with such factual information and materials as Woodburn requires to perform the services for which you request assistance. Carson City will make such business or technical decisions and determinations as are appropriate. We will keep you advised of developments as necessary to perform our services and will consult with you as necessary to ensure the timely, effective and efficient completion of our work.

Regarding the ethics of our profession that will govern our representation of Carson City, several points deserve emphasis. As a matter of professional responsibility, the attorneys at Woodburn are required to preserve their clients' confidences and secrets. This professional obligation and the legal privilege for attorney-client communications exist to encourage candid and complete communication between a client and its attorneys. We can perform truly beneficial services for a client only if we are aware of *all information that might be relevant to our representation*. Consequently, we trust that our attorney-client relationship with Carson City will be based on mutual confidence and unrestrained communication that will facilitate our proper representation of Carson City.

During the term of this engagement, we agree that we will not accept representation of another client to pursue interests that are directly adverse to Carson City's interests unless and until we have made full disclosure to Carson City of *all of the relevant facts, circumstances and implications of our undertaking the two representations and Carson City has consented to our representation of the other client*.

Upon completion of the matter to which this engagement applies, or upon earlier termination of our attorney-client relationship, our attorney-client relationship will end unless Carson City and Woodburn expressly agree to a continuation of the attorney-client relationship with respect to other matters. The representation is terminable at will by either party subject to ethical restraints and the payment of all fees and costs. In the unusual event that a court of competent jurisdiction refuses to permit Woodburn to withdraw, Carson City shall remain responsible and liable for all fees and costs.

Carson City's Responsibilities

With regard to Carson City's responsibilities in this matter, Carson City agrees to cooperate with us, to keep us informed of all developments, to be truthful with us, to communicate and disclose fully to us all matters relevant to this matter, to abide by this agreement and to advise us concerning any disputed fee or cost charged in this matter. Woodburn will rely on materials and matters provided and communicated to us by you and Carson City.

Fees and Payment Terms

We will endeavor to keep Carson City's expenses down by assigning tasks to professionals with different levels of experience and different billing rates, depending on the demands of the individual task. We must retain complete discretion in assigning work within Woodburn. The legal services to be rendered by Woodburn to Carson City will be provided primarily by me. The current hourly rate for my services and the services of other shareholders of Woodburn is \$245 per hour. Associate attorneys' time is billed at rates between \$175 and \$225 per hour. If any matter assigned to us is not concluded within a year from the date of this letter, we reserve the right to adjust our fees thereafter.

Woodburn will bill for customary disbursements, including, without limitation, filing fees, courier delivery fees, recording fees, documentary transfer taxes, certified copy fees, investigation costs, necessary travel expenses, telephone charges, mail charges, computerized legal research, telecopying and photocopying. By signing this letter below, Carson City expresses not only agreement with the foregoing, but also its authorization for us to advance such costs and to make such out-of-pocket expenditures on behalf of Carson City as we deem reasonably necessary in the proper handling of Carson City's legal matters.

Discharge and Withdrawal

Carson City may discharge Woodburn at any time with or without cause. Woodburn likewise may terminate its representation of Carson City. Events that could cause our termination of representation of Carson City include, without limitation, Carson City's breach of this agreement, Carson City's refusal to cooperate with Woodburn, Carson City's refusal or failure to provide Woodburn with necessary information, Carson City's failure to timely pay legal fees, costs and/or other charges payable by Carson City under this agreement, Carson City's refusal or failure to follow Woodburn's advice regarding a material matter and any other fact or circumstance that would render Woodburn's continuing representation of Carson City unlawful or unethical or that otherwise would impair Woodburn's ability to represent Carson City.

When Woodburn's services to Carson City conclude, all unpaid charges will immediately become due and payable. After Woodburn's services to Carson City conclude, Woodburn will, upon Carson City's request, deliver Carson City's files to them, along with any funds or property that belongs to it that may be in Woodburn's

Edward L. Oueilhe, III
April 6, 2007
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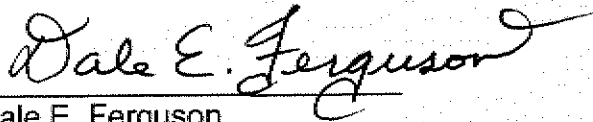
possession and, except for those actions, Woodburn will not be required to undertake any further action or responsibility.

Disclaimer of Guarantee

Nothing in this agreement and nothing in Woodburn's statements to Carson City will be construed as a promise or guarantee about the outcome of this matter. Woodburn makes no such promises or guarantees. Woodburn's comments about the outcome of this matter are expressions of opinion only.

We thank you and Carson City for choosing Woodburn to assist it with this matter. If you have any questions about this engagement letter or other issues, please contact me. Woodburn looks forward to working with you on this matter.

Sincerely,
Woodburn and Wedge

By: 
Dale E. Ferguson

DEF/cm

Edward L. Oueilhe, III
April 6, 2007
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**AGREEMENT TO ALL
TERMS, LIMITATIONS AND CONDITIONS OF REPRESENTATION**

The undersigned, an authorized representative of Carson City, Nevada hereby acknowledges that he/she has had an opportunity to review the letter set forth above and agrees to legally bind Carson City, Nevada to all of the terms, limitations and conditions of Woodburn's engagement set forth herein.

Date: _____

By: _____

Its: _____