



## Legislation Details (With Text)

**File #:** 2021-1207  
**Type:** Consent Calendar Item **Status:** Passed  
**File created:** 10/14/2021 **In control:** Sonoma County Water Agency  
**On agenda:** 11/16/2021 **Final action:** 11/16/2021  
**Title:** First Amended Legal Services Agreement with Water and Power Law Group, PC  
**Sponsors:** Sonoma County Water Agency, County Counsel  
**Indexes:**  
**Attachments:** 1. Summary Report, 2. First Amended Agreement

Date	Ver.	Action By	Action	Result
11/16/2021	1	Board of Supervisors	Approved as recommended	Pass

**To:** Board of Directors, Sonoma County Water Agency  
**Department or Agency Name(s):** Sonoma County Water Agency, County Counsel  
**Staff Name and Phone Number:** Pam Jeane 521-1864; Adam Brand 565-3731  
**Vote Requirement:** 4/5th  
**Supervisory District(s):** Countywide

**Title:**  
First Amended Legal Services Agreement with Water and Power Law Group, PC

### Recommended Action:

In an ongoing effort to achieve water management that supports economic development and sustains aquatic ecosystems:

Authorize the County Counsel to execute a First Amended Legal Services Agreement with Water and Power Law Group PC to provide legal and consulting services to develop strategies to resolve conflicts among regional water supply and fisheries interests through June 30, 2024, in the not-to-exceed amount of \$850,000. This amendment adds an additional two (2) years and \$400,000 to the current Agreement.

(4/5<sup>th</sup> Vote Required)

### Executive Summary:

This item requests authorization for the County Counsel to execute a legal services agreement with Water and Power Law Group PC (Attorney) for legal and consulting services to assist Sonoma Water in developing strategies to resolve conflicts among regional water supply and fisheries interests.

### Discussion:

#### HISTORY OF ITEM/BACKGROUND

Sonoma Water has long recognized the importance of working with and developing relationships among different groups having an interest in regional water resources. Understanding these diverse interests and finding pragmatic solutions to water-related issues is critical to the future economic and environmental security of Sonoma County and the region.

One of the most difficult issues involves balancing the habitat needs of listed salmonid species against the water supply needs of agriculture and recreational and municipal users, particularly those who rely on diversions from the Russian River north of its confluence with Dry Creek. These users depend on water supply releases from Lake Mendocino, which in turn benefits from water transfers from PG&E's Potter Valley Project. The amount of water available in Lake Mendocino for Russian River water supply and fisheries needs in the future will be affected by a number of factors, including: the State Water Resources Control Board's decision on Sonoma Water's pending petition to change minimum Russian River instream flow requirements required by the Russian River Biological Opinion; possible changes in the U.S. Army Corps of Engineers rules for Lake Mendocino flood control operations; possible changes to PG&E's Federal Energy Regulatory Commission license for the Potter Valley Project, which expires in 2022 (which could affect the amount of water flowing into Lake Mendocino); the success of efforts by Sonoma Water to improve habitat for listed species in the region; the impacts of climate change on inflows into Lake Mendocino and on water users; and the success of efforts to reduce water use and coordinate water diversions by agriculture and municipal users on the upper Russian River.

To assist Sonoma Water staff in fostering dialogue among these competing interests and in developing a strategy to master these upcoming challenges, Sonoma Water staff and County Counsel recommend continuing to work with Attorney, headed by Richard RoosCollins. Mr. Roos-Collins is known throughout the state for his thorough, professional, effective, and pragmatic work, primarily on behalf of environmental groups, in matters relating to water rights, Federal Energy Regulatory Commission licensing proceedings, and other matters affecting fishery habitat, and is familiar with Sonoma Water and the North Coast region.

Under the proposed agreement, Mr. Roos-Collins will be paid his customary hourly rate for public agencies of \$350 per hour. Work under this agreement will be coordinated through County Counsel. The proposed agreement terminates June 30, 2024, with an option for County Counsel to extend the agreement for two additional one-year terms to June 30, 2026.

#### SELECTION PROCESS

Mr. Roos-Collins is an expert in the area of water rights, fisheries enhancement and protection, and Federal Energy Regulatory Commission licensing procedures. Because of this longstanding representation of environmental groups and his reputation for seeking negotiated, consensual solutions to situations in which water supply and environmental goals conflict, he has been and will continue to be an asset to Sonoma Water in finding common ground among divergent interests. Because of these special skills and talents, Attorney is uniquely qualified to perform the work and was the only firm contacted.

#### SERVICES TO BE PERFORMED

Under the proposed agreement, Attorney will provide legal and consulting services to develop strategies to resolve conflicts among regional water supply and fisheries interests.

This amendment adds an additional two (2) years and \$400,000 to the current Agreement. The cost of services will not exceed \$150,000 in fiscal year 2021/2022 (\$50,000 from the current Agreement and \$100,000 from the amendment), \$150,000 in fiscal year 2022/2023, and \$150,000 in fiscal year 2023/2024. The total agreement amount is \$850,000. The term end date is June 30, 2024.

#### **Strategic Plan:**

This item directly supports the County's Five-year Strategic Plan and is aligned with the Resilient Infrastructure

Pillar.

**Sonoma Water Strategic Plan Alignment:** Water Supply and Transmission System, Goal 2: Maintain and improve the reliability of the Water Transmission System.

Water and Power Law Group's legal services in relation to the Potter Valley Project relicensing proceedings will assist Sonoma Water in meeting the Two Basin Solution's goals for water supply reliability in the Russian River, and promoting fisheries restoration in the Eel River.

**Prior Board Actions:**

6/11/2019: Approved agreement between Sonoma Water and Water and Power Law Group PC for legal and consulting services from June 21, 2019, to June 20, 2022. Cost \$450,000.

06/21/2016: Approved agreement between Sonoma Water and Water and Power Law Group PC for legal and consulting services from July 1, 2016, to June 30, 2018. Cost \$300,000.

12/10/2013: Approved agreement between Sonoma Water and Water and Power Law Group PC for legal and consulting services. Cost \$310,000; term end June 30, 2016.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 21-22 Adopted</b>	<b>FY22-23 Projected</b>	<b>FY 23-24 Projected</b>
Budgeted Expenses	\$100,000	\$150,000	\$150,000
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>\$100,000</b>	<b>\$150,000</b>	<b>\$150,000</b>
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other	\$100,000	\$150,000	\$150,000
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>\$100,000</b>	<b>\$150,000</b>	<b>\$150,000</b>

**Narrative Explanation of Fiscal Impacts:**

Budgeted amount of \$100,000 is available from FY 2021/2022 appropriations for the Russian River Projects Fund. FY 2022/2023 and 2023/2024 appropriations will be budgeted in those fiscal years.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

First Amended Legal Services Agreement with Water and Power Law Group PC

**Related Items “On File” with the Clerk of the Board:**

None.