

## **AGENDA ITEM**

March 3, 2020

Subject: WTP Financial & Legal Assistance

Department: Administration

Firms were contacted to assist in the financing of the proposed Water Treatment Plant improvements. After the initial interviews with Black & Veatch and Allgeier Martin and Associates it was determined to engage McCaffree Law Firm. For over 40 years the McCaffree Law Firm has worked with multiple water districts to secure funding for similar projects.

**Managers Note:** Bill McCaffree's duties as noted in Section 2-85 of the Municipal Code are for general counsel and the WTP financing would fall under the extraordinary and specialty legal services noted in Section 2-86.

**BILL NO. 2020-025**

**ORDINANCE NO.**

**A SPECIAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, APPROVING AN AGREEMENT FOR LEGAL SERVICES ON THE CITY'S PROPOSED WATER SYSTEM IMPROVEMENT PROJECT.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI THAT:

**Section 1.** The legal services agreement attached hereto and incorporated herein by reference is approved.

**Section 2.** It is noted that no charge will be made if the city abandons the project.

**Section 3.** The city manager and city clerk are authorized and directed to execute the agreement and to affix the corporate seal.

**PASSED, APPROVED and ADOPTED** by the City Council of the City of Nevada, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
George Knox, Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Johnna Williams, Acting City Clerk

**LEGAL SERVICES AGREEMENT**  
**Water Supply System – City of Nevada, Missouri - 2020**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of January, 2020, by and between the City of Nevada, Vernon County, Missouri, a Third Class Home Rule Charter Missouri Municipality, hereinafter called the “City” and Wm. G. McCaffree, P.O. Box 244, Rockwood Building, 128 ½ West Walnut Street, Nevada, Missouri 64772, hereinafter called “Attorney”,

WITNESSETH,

WHEREAS, legal services required for unusual special projects are not included within the services contemplated by the City’s arrangement with its City attorney and are to be the subject of independent agreement with any Attorney of the City’s choice, and

WHEREAS, City may require legal assistance, should its voters approve issuance of revenue bonds to finance, construct, purchase and commence use of improvements to its Public Water System and the Attorney agrees to perform such legal services as are needed for the project - for the financing, construction, purchasing, and commencing use of said facilities, such services to include, but not to be restricted to the following.

1. **In General.** Preparation for and furnishing advice and assistance to the City in connection with (a) the notice for and conducting the meetings of the governing body; (b) the preparation of minutes or journal entries of these meetings as may be requested by the City, or which may involve legal issues; (c) preparation and enactment of such resolutions or ordinances as may be necessary in connection with the authorization, financing, construction and operation of the water system improvements; (d) the preparation of such affidavits, publication notices, ballots, reports, certifications and other instruments and legal advice as may be needed; (e) the execution of documents for obtaining a loan and or grant made or insured by the United States of America, acting through the USDA Rural Development; (f) bidding, approving contractor insurance and entering into construction contracts; (g) adoption of resolutions or ordinances containing rules, regulations and rate schedules as may be required by the lending or grant authorities; and authorizing and confirming contract award, (h) such other City legal action as may be necessary in connection with the financing, construction and initial operation of the improved facilities.
2. **Legal assistance as to Contracting, Financing and Construction.** Review of construction contract, bid-letting procedures, surety, and performance and payments bonds in connection therewith and assistance to the City and Engineer on legal issues impacting the City, as may be needed.
3. **Construction Contract, Bid letting, Performance and Payment bonds, Exceptions and Cautionary Remarks.** Preparation or Review of construction contract, bid-letting procedures, surety and contractual bonds in connection therewith and as applicable coordination in assembling exceptions and cautionary remarks occasioned by legal issues.
4. **Real Estate Acquisition and Title Insurance.** The attorney will supervise acquisition

of any additional property or property rights and provide such legal assistance as may be needed in connection with the acquisition of title insurance required by lender.

5. **Oversight on Real Estate Issues.** Examination of real estate title searches or commitments and preparation or review of deeds, easements, or other instruments, for sites for facilities necessary to the water system improvements, and recording of the same. Title searches by an abstract company, and issuance of title insurance, will be the responsibility of an abstractor selected by the City.
6. **Right of Way, Title to Construction Sites, Contracts and Permits.** Cooperation with the engineer and, if applicable, with the CDBG Grant Administrator employed by the in connection with title documents, construction contracts, contractor's insurance certificates, and other such issues as may be assigned by the City.
7. **Dockets and Transcripts.** Assemble and prepare dockets or transcripts of the instruments and proceedings showing the actions taken for financing the water system improvements as may be requested by bond counsel.
8. **Relationships with Governmental Lending, Grant and Regulatory Agencies and Bond Counsel - Formal Opinions and Certifications Associated Therewith.** The attorney's obligation hereunder will include preparation of opinions of counsel as required by the City or agencies of the State of Missouri or Federal Government, such as USDA Rural Development, MoDNR, CDBG, SRF, and such other legal work as requested by the City or as needed to advance and complete the project, and to coordinate with governmental financing, grant and regulatory officials. The attorney will assist and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the system.
9. **Charges and Payment arrangements.** The City agrees to pay the Attorney for professional services as follows:
  - a. The attorney will charge his hourly rate of \$275 for his time devoted to the project, except that advances for the convenience of the City such as recording and filing costs and fees demanded by Title Companies and publication fees, will be reimbursed. In any event the fee charged will be capped at the finally approved project budget. Litigation and Condemnation will be available but is not anticipated at present and not currently included in the legal work anticipated in this instrument.
  - b. No fee shall be charged if for any reason the city abandons the project.
  - c. Payment will be due if and when the construction contract is awarded and when funds are made available through project financing.
  - d. Extraneous expenses of the City are not included in this agreement. Such expenses include charges of abstract and title companies, recording costs,

fees of bond counsel, title searches, title insurance premiums, and litigation and condemnation costs, court costs, service fees, and charges of governmental agencies for licenses and clearances.

- g. The routine out of pocket expenses of the attorney will be absorbed by the attorney. Such expenses normally include but are not limited to expenses for travel, photocopies, work of his staff, long distance tolls, and other routine office costs. The engineer selected by City will be required to provide plans and drafts as needed by the Attorney and drawings required in addressing right of way or title problems without charge.
- h. No advance payment is anticipated or required.
- i. If financing is to be obtained from USDA, Rural Development, the parties will request USDA concurrence on this agreement and make such adjustments to the agreement as may be suggested.

10. **Signatures.** By reason of the modern need for electronic communication, it is mutually agreed that a copy, or a faxed signature shall have the same force and effect as an original, and shall be admissible in any agency or judicial proceeding without objection, but that the City will maintain a fully signed copy in its permanent records attached to the approving ordinance.

11. This agreement may be amended or corrected by mutual agreement at any time.

Attorney:

By: \_\_\_\_\_  
Wm. G. McCaffree

Nevada, MO – City:

(SEAL)

By: \_\_\_\_\_  
Mayor, George Knox

\_\_\_\_\_  
City Clerk, Johnna Williams

Where USDA financing is to be utilized -  
This agreement is approved by USDA, Rural Development  
this \_\_\_ day of \_\_\_\_\_, 2020.

AGENCY CONCURRENCE

As lender or insurer of funds to defray the costs of this contract and without liability for any payments thereunder, the Agency hereby concurs in the form content, and execution of this agreement.

USDA, Rural Development

By: \_\_\_\_\_  
Area Specialist Name and title