

# **TOWN** *Of* **PARADISE VALLEY**



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## **STAFF REPORT**

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**TO:** Mayor Bien-Willner and Town Council Members

**FROM:** Andrew McGuire, Town Attorney  
Deborah Robberson, Asst. Town Attorney

**DATE:** December 2, 2021

**DEPARTMENT:** Town Attorney  
Deborah Robberson, 480-348-3609

**AGENDA TITLE:**

**Discussion and Action to Approve Additional Funding for Legal and Expert Witness Services Related to the EPCOR Water Rate Case Pending at the Arizona Corporation Commission**

**RECOMMENDATION:**

Approve additional funding of \$50,000 for legal services from the Crockett Law Group and expert witness services from Thornton Financial Consulting (John Thornton).

**SUMMARY STATEMENT:**

On October 8, 2020, the Town Council passed Resolution 2020-29 approving the Town's intervention and authorizing the Town's attorneys to oppose consolidation of the PV Water District with other 10 other EPCOR water districts in the rate case filed at the Arizona Corporation Commission ("Commission"). Beginning in December 2020, Munger Chadwick & Denker, PLC represented the Town, but was required to withdraw from representation in late December due to a conflict of interest.

In early January 2021, the Crockett Law Group (Jeff Crockett) was retained, and the Town entered an interim contract in order to meet the Town's deadline to file testimony in the rate case that was due in January. On February 11, 2021, the Town Council approved a retainer agreement with Crockett Law Group for representation in the EPCOR rate case, and to share certain fees and expenses with the Paradise Valley Resorts that were also represented by the Crockett Law Group in the rate case. At the time this contract was approved, legal fees were estimated to run approximately \$25,000 and expert fees to be about \$10,000 for the matter.

The EPCOR rate case has been protracted due to several unusual circumstances. In fact, the Commission's timeframe to issue a final order within 360 days of the date EPCOR's application is deemed sufficient was suspended by the ALJ. EPCOR filed this rate case June 15, 2020, and a decision by the Commission was originally expected by July 8, 2021. The administrative hearing was initially delayed because of a

scheduling conflict and was conducted April 5 to April 19, 2021. The hearing was reopened for a day on May 6, 2021, to take additional testimony after questions were raised by a Commissioner. On September 1, 2021, Bullhead City took possession of two of the water districts at issue as part of its condemnation litigation, which resulted in additional filings by EPCOR, Utilities Division Staff and one of the intervenors and an additional conference with the ALJ. Finally, on October 2, 2021, the Arizona Supreme Court issued its opinion upholding consolidation in EPCOR's 2016 sewer rate case (Docket WS-01303A-16-0145). The issuance of the Recommended Opinion and Order ("ROO") in November, after the Court's opinion, appears to have been timed to take advantage of the Court's analysis and decision. The Commission is tentatively set to hear this EPCOR rate case on December 15 or 16, 2021.

The ROO recommends consolidation of the Paradise Valley Water District with eight other districts. Future legal and expert services include analysis and possible filings related to EPCOR's fee schedules due November 26, and appearance at the Commission's December hearing.

In addition to representing the Town in the EPCOR water rate case, on March 25, 2021, the Town Council passed Resolution 2021-07 authorizing the Crockett Law Group to file an amicus brief in the above-referenced case pending before the Arizona Supreme Court involving consolidation of five EPCOR sewer districts. At the time, no additional funds were appropriated for this work.

This is a request to continue the legal and expert services of the Crockett Law Group and Thornton Financial Consulting through fruition of the EPCOR water rate case.

**BUDGETARY IMPACT:**

The protracted course of the EPCOR water rate case and the additional task of filing an amicus brief have resulted in approximately \$5,757 of fees in excess of the original estimate of \$35,000 for legal and expert fees for the water rate case. This is a request to grant up to an additional \$50,000 for legal and expert services for the EPCOR water rate case.

**ATTACHMENT(S):**

- A. Staff Report
- B. Resolution 2020-29
- C. Engagement Letter with Crockett Law Group
- D. Resolution 2021-07