

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 9, 2012

Board Item: V-A-5

**Agreement for Legal Services
Rothgerber, Johnson & Lyons LLP, Contract # 14183A**

Action by Consent

Action

Information

Denver Water has agreed to be the named plaintiff in a class action lawsuit filed on April 2, 2012 against three major manufacturers of ductile iron pipe fittings, all of which were subjects of anti-trust price-fixing complaints recently settled by the Federal Trade Commission. As a direct purchaser of ductile iron pipe fittings from two of the defendants, Star Pipe and Sigma Pipe, Denver Water was directly injured by the price fixing scheme. It is intended that the class represented by Denver Water will include other municipal water utilities injured by the defendants' actions.

If successful in the lawsuit, Denver Water could potentially recover treble damages based on overpayments. The Legal Division has selected Thomas M. Rogers, III, of the law firm Rothgerber, Johnson & Lyons LLC, to represent the Board in this matter on a contingency fee basis. The firm will advance all costs on behalf of Denver Water. The attached Agreement for Legal Services provides that Denver Water will incur no expenses related to the lawsuit unless the litigation is successful in recovering damages from the defendants.

The term for the legal services agreement is retroactive to April 2, 2012, and will continue until conclusion of the firm's representation in this matter. No Denver Water funds shall be expended to pursue this legal claim.

Recommendation:

It is recommended that the Board approve execution of Agreement No. 14183A for Legal Services with Rothgerber, Johnson & Lyons LLC.

Approvals:

Respectfully submitted,



Patricia L. Wells, General Counsel



James S. Lochhead
CEO/Manager