

City of Carson City
Agenda Report

Item # 9-5b

Date Submitted: 10/12/10

Agenda Date Requested: 10/21/10

Time Requested: Consent

To: Mayor and Supervisors

From: Nick Providenti, Finance Director

Subject Title: Action to confirm the engagement of Swendseid & Stern as bond counsel to Carson City, Nevada in connection with the \$5,000,000 Carson City, Nevada General Obligation (Limited Tax) Various Purpose Refunding Bonds and the \$2,600,000 Carson City, Nevada General Obligation (Limited Tax) Park Refunding Bonds.

Staff Summary: The agreement between the City and the firm of Swendseid and Stern sets forth the role proposed to be served and the responsibilities proposed to be assumed as bond counsel.

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does this action require a Business Impact Statement: () Yes (XX) No

Recommended Board Action: I move to confirm the engagement of Swendseid & Stern as bond counsel to Carson City, Nevada in connection with the \$5,000,000 Carson City, Nevada General Obligation (Limited Tax) Various Purpose Refunding Bonds and the \$2,600,000 Carson City, Nevada General Obligation (Limited Tax) Park Refunding Bonds.

Explanation for Recommended Board Action: The attached letter will operate as the form of agreement between the City and the firm of Swendseid and Stern sets forth the role proposed to be served and the responsibilities proposed to be assumed as bond counsel.

Applicable Statute, Code, Policy, Rule or Regulation: N/A

Fiscal Impact: \$50,000 to \$55,000

Explanation of Impact: N/A

Funding Source: Various Accounts

Alternatives: Not to confirm Swendseid and Stern as bond counsel.

Supporting Material: Engagement Letter

Prepared By: Nick Providenti

Reviewed By:

Theresa Prohaska
(Department Head)

Date: 10/12/10

: [Signature]
(City Manager)

Date: 10/12/10

: [Signature]
(District Attorney)

Date: 10/12/10

: Theresa Prohaska
(Finance Director)

Date: 10/12/10

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)

Swendseid & Stern

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Sherman & Howard L.L.C.

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October 5, 2010

E-Mail: jstern@sah.com

Nick Providenti
Finance Director
Carson City
201 N. Carson, No. 3
Carson City, Nevada 89701

Carson City, Nevada
General Obligation (Limited Tax) Various Purpose Refunding Bonds
and
General Obligation (Limited Tax) Park Refunding Bonds

Dear Nick:

We are pleased to confirm our engagement as bond counsel to Carson City, Nevada (the "City"), in connection with the above-captioned bonds (the "Bonds"). This letter will operate as the form of agreement between the City and our firm and sets forth the role we propose to serve and the responsibilities we propose to assume as bond counsel.

Scope of Services as Bond Counsel. For services will include those normally performed by bond counsel. We will prepare all legal proceedings needed preliminary to and in the issuance of the bonds so far as they relate to the legality and the enforceability of the bond issues, including proceedings authorizing the issuance of the sale and the closing certificates for the bond issues. Our services as bond counsel also include an examination of an executed transcript of proceedings and issuance of our final approving opinions which relate to the validity of the bonds and the exemption of interest on the bonds from federal income taxation. All proceedings that we prepare would be prepared in collaboration with you, the City's attorney, the City's financial advisor and other appropriate representatives of the City.

Our client in this matter is Carson City, Nevada. We sometimes represent in other transactions the State of Nevada and certain of the financial institutions that may be involved in this transaction, such as bond underwriters, credit enhancers, and banks that act as paying agents and trustees. We do not believe any of these representations will affect our ability to represent the City in this matter, and in any event, during the term of our engagement by the City, we will not accept a representation of any of these parties in any matter in which the City is an adverse party. We do, however, ask that you consent to our representing these parties in transactions that do not directly or indirectly involve the City. Please advise me if this will create any problems or raise any questions. We will assume the City consents to these representations unless you otherwise advise me.

Swendseid & Stern

October 5, 2010

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When acting as bond counsel, we do not render financial advice and we normally do not assume responsibility for the preparation of such collateral documents as environmental impact statements or instruments, if any, which must be filed with state, federal or other regulatory agencies or for litigation concerning the bonds, the City or any other matter, and our fees do not include any such services. Also, our services are normally completed at the time of closing for the bond issue -- i.e., they do not include any post issuance tax compliance, audits, continuing disclosure, etc. If services described in this paragraph are requested of us, we suggest that we discuss the nature and extent of those services and an estimate of our fee at the time of the request. In addition, our services as bond counsel do not include any substantive role in the preparation or review of a prospectus or official statement pertaining to the bond issue. We do not contemplate making any "due diligence" inquiries under the review outlined in this paragraph and our services do not include any financial advice - we understand the City has hired a financial advisor to provide that advice.

Proposed Fees. Our basic fee for performing services as bond in the approximate principal amount of \$5,000,000 of general obligation various purpose refunding bonds is estimated to be between \$28,000 and \$30,000 and \$2,600,000 of general obligation park refunding bonds is estimated to be between \$22,000 and \$25,000. These amounts will be determined after the bonds are issued and be based on the amount of time, effort, etc. attorneys at this firm expend performing services in connection with the issuance of the bonds.

If the bonds are issued with unusual features (e.g., as floating interest rate bonds or "put" bonds) or with unusual security (e.g., a letter of credit), or other factors cause us to need to put an abnormal amount of time into work on this issue, our fee will be greater than that estimated above.

In addition to our fee we also charge for all disbursements incurred by us, including out-of-town travel, long distance telephone calls, telecopy charges and Express Mail, Federal Express and other delivery charges.

Document Retention. At or within a reasonable period after closing, I will direct a review of the file to determine what materials should be retained as a record of the representation and those which are no longer needed. Ordinarily, we will return original legal documents to you along with the Closing transcripts, and we will retain for several years such materials as correspondence, final substantive work product, documents obtained from the client, and documents obtained from third parties. We will not retain such materials as duplicates of the above-described material, or drafts and notes that do not appear needed any longer.

As to the client file materials that we retain, ordinarily the firm will keep those for a period of seven years after the final maturity of the bonds. At the end of that time, unless the City has advised us in writing to the contrary, we will destroy the bulk of the file. If the file is especially voluminous, we may return the client file to you sooner than the end of this period as our storage facilities are limited, however, we always reserve the right to retain a copy of the files. If the City