



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: SEPTEMBER 17, 2024

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: APPROVE A NEW LEGAL BUDGET IN THE AMOUNT NOT TO EXCEED \$300,000, FOR SPECIALIZED LEGAL ASSISTANCE

ISSUE:

Approve a new legal budget for the law firm of Jarvis Fay in amount not to exceed \$300,000 to defend the City in the case entitled *Regents of the University of California v. City of Riverside*, a writ of mandate action challenging the City's sewer capacity fees

RECOMMENDATION:

That the City Council

1. Approve a new legal budget for the law firm of Jarvis Fay in amounts not to exceed \$300,000, to defend the City in the case entitled *Regents of the University of California v. City of Riverside*, a writ of mandate action challenging the City's sewer capacity fees; and
2. Authorize the City Attorney to execute an Engagement Letter to retain Jarvis Fay to defend the City in the case entitled *Regents of the University of California v. City of Riverside*.

BACKGROUND:

On May 13, 2014, the City adopted resolution number 22682 establishing capacity fees for users of the public sewer system seeking to make new connections. Through the Riverside campus, the Regents of the University of California (UCR) seek to connect a 429 unit apartment building, called the North District Development Phase 2 (Project), to the City's public sewer system. UCR has challenged the application of the sewer capacity fee to its Project and has filed a Petition for Writ of Mandamus in the Riverside Superior Court seeking a Court order compelling the City to issue a permit necessary for the construction and connection of the Project to the public sewer system without payment of a sewer capacity fee.

In general, UCR argues that state law, Government Code section 54999 et seq. limits the City's ability charge UCR for sewer capacity fees and that the City cannot apply its sewer capacity fees to UCR's Project.

DISCUSSION:

City Charter section 702, “Eligibility, powers and duties of City Attorney,” provides, in part, that “the City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.”

The law firm of Jarvis Fay provides specialized legal services in litigating and advising clients on local taxes, fees, and assessments, including issues arising under Propositions 13, 26, 62, and 218. Jarvis Fay has litigated property tax allocations, business license taxes, transient occupancy taxes, utility user taxes, parcel taxes, development impact fees, user fees, regulatory fees, fees for services, and special assessments. The City Attorney’s Office does not currently have that specialized legal knowledge.

STRATEGIC PLAN ALIGNMENT: The retention of experienced outside counsel to provide legal advice and supports all priorities of the City of Riverside’s Envision Riverside 2025 Strategic Plan, as such advice is provided to all departments of the City, the City Council, Boards and Commissions.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – Riverside is transparent and makes decisions based on sound policy, inclusive community engagement, involvement of City Boards & Commissions, and timely and reliable information. Use of outside counsel that specialize in specific areas of the law supports and aids the making of such decisions.
2. **Equity** – Use of outside counsel that specialize in specific areas of the law benefits the entire community by ensuring that such efforts comply with all aspects of the law.
3. **Fiscal Responsibility** – The City Attorney’s Office is expending funds in a careful and judicious manner balanced against the need for specialized legal counsel when the circumstances warrant.
4. **Innovation** – The retention of specialized legal counsel to provide specialized legal advice supports City innovation efforts by ensuring that such efforts comply with all aspects of the law.
5. **Sustainability & Resiliency** – The retention of specialized legal counsel to provide specialized legal advice supports City goals of sustainability and resiliency by ensuring that such efforts comply with all aspects of the law.

FISCAL IMPACT:

The approval of a new legal budget for the law firm of Jarvis Fay is in an amount not to exceed \$300,000 to defend the City in the new lawsuit filed by UCR and is for specialized legal assistance. Sufficient funds are available in the Wastewater Division outside legal services Account No. 4125000-421100.

Prepared by: Phaedra Norton, City Attorney
Certified as to
availability of funds: Kristie Thomas, Finance Director / Assistant Chief Financial Officer