



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: May 10, 2022**

FROM: CITY ATTORNEY'S OFFICE **WARDS: ALL**

SUBJECT: AUTHORIZE AN INCREASE IN EXPENDITURES BY \$150,000 TO CONTINUE TO RETAIN HOLLAND AND HART TO REPRESENT THE CITY FOR THE NEGOTIATION OF POWER PURCHASE AGREEMENT MATTERS FOR A TOTAL EXPENDITURE AUTHORIZATION OF \$200,000

ISSUE:

Authorize an increase in expenditures by \$150,000 to continue to retain Holland and Hart to represent the City for the negotiation of power purchase agreement matters for a total expenditure authorization of \$200,000.

RECOMMENDATION:

That the City Council:

1. Approve an increase in expenditures by \$150,000 to continue to retain Holland and Hart to represent the City for the negotiation of power purchase agreements, for a total authorized expenditure of \$200,000.
2. Authorize the City Attorney to execute Engagement Letters to retain Holland and Hart for the negotiation of power purchase agreements.

BOARD RECOMMENDATION:

On May 9, 2022, the Board of Public Utilities will consider whether to authorize an increase in expenditures by \$150,000 to retain Holland and Hart to represent the City in power purchase agreement matters for a total expenditure authorization of \$200,000. This report will be updated to reflect whether that approval was granted.

BACKGROUND

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." Charter

section 1202(a) authorizes the Board of Public Utilities to authorize expenditures over \$50,000.

On March 2, 2021, the City Council authorized the addition of the law firm Holland and Hart to the approved attorney panel and authorized an initial expenditure of \$50,000 to assist with the negotiation and drafting of power purchase agreements.

DISCUSSION:

The City has worked productively with Holland and Hart on the negotiation of power purchase agreements. Power purchase agreements are highly technical, long-term contracts for the procurement of power resources. The use of legal counsel with specialized expertise can help ensure that the City negotiates for and obtains favorable contract terms. Holland and Hart has extensive experience in the negotiation and drafting of power purchase agreements for various types of projects, including wind, solar, and power storage agreements. The City Attorney would like to continue to retain Holland and Hart for the completion of a power purchase agreement for a wind project in Southern California and for additional power purchase agreements as they arise. It is anticipated that the City will have the opportunity to negotiate and enter into another power purchase agreement for solar and battery storage later this year. The City Attorney requests the approval of an additional expenditure amount of \$150,000 to retain Holland and Hart to assist with the completion of a power purchase agreement for a wind project and to retain Holland and Hart for additional power purchase agreement services as necessary.

STRATEGIC PLAN ALIGNMENT:

The retention of experienced outside counsel to assist the City's electric utility in the negotiation and drafting of power purchase agreements supports the priorities of the City of Riverside's Envision Riverside 2025 Strategic Plan, by contributing to Strategic Priority No. 4 Environmental Stewardship, by supporting the following:

Goal 4.1– Rapidly decrease Riverside's carbon footprint by acting urgently to reach a zero-carbon electric grid with the goal of reaching 100% zero-carbon electricity production by 2040 while continuing to ensure safe, reliable and affordable energy for all residents.

Goal No. 4.6 –Implement the requisite measures to achieve citywide carbon neutrality no later than 2040.

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 areas of the law related to the purchase of power for the City's electric utility will assist the City in providing safe, reliable and affordable energy for all residents while allowing the importation of 100% zero-carbon electricity production by 2040.
2. **Equity** – Use of outside counsel that specialize in areas of the law related to the purchase of power for the City's electric utility will support RPU as RPU provides equitable opportunities for all customers to become more sustainable which benefits the entire

community.

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. Specialized legal counsel in this instance will help ensure that RPU obtains favorable power purchase agreement terms that foster an efficient long-term contractual relationship.
4. **Innovation** – The retention of specialized legal counsel to support power purchase agreement negotiation supports innovation projects because such legal representation will promote reliable electric service at an affordable price.
5. **Sustainability & Resiliency** – Riverside is committed to providing safe, reliable and affordable energy for all residents while allowing the importation of 100% zero-carbon electricity production by 2040. Use of outside counsel that specialize in areas of the law related to the purchase of power for the City’s electric utility will allow the City to accomplish that goal.

FISCAL IMPACT:

The total fiscal impact of this action is \$150,000 over Fiscal Years (FYs) 2021/22 & 2022/23. \$20,000 will be charged in FY2021/22 & \$130,000 will be charged in FY 2022/23. Funds for FY 2022/23 are budgeted and available in the Electric Fund, PU Electric Supply Power Operations, Outside Legal Services account number 6120000-421100. Appropriations for future fiscal years will be included in the Department’s Budget submissions for those fiscal years to be presented to the City Council for approval.

Prepared by: Phaedra A. Norton, City Attorney
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer