



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: AUGUST 1, 2023

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: AUTHORIZE LEGAL SERVICES AGREEMENT WITH ETJ LAW, INC. OF CEDAR HILLS, UTAH WITH A THREE-YEAR TERM

ISSUE:

Consider approving Legal Services Agreement with law firm of ETJ Law, Inc. of Cedar Hills, Utah.

RECOMMENDATIONS:

That the City Council:

1. Approve the Legal Services Agreement with ETJ Law, Inc. of Cedar Hills, Utah, adding to the legal counsel professional services panel; and
2. Authorize the City Attorney to execute the Legal Services Agreement for such outside legal counsel professional services; and
3. Authorize the City Attorney to execute a three-year extension to such Legal Services Agreement for the retention of outside legal services, including any annual rate increases.

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."

On February 4, 2015, the Governmental Affairs Committee first reviewed and considered a proposed policy for the retention of outside counsel by the City Attorney's Office. At that time, the Committee requested that the City Attorney's Office revise the policy to include a provision for recommended signature authority for the City Attorney on outside counsel contracts, how long the initial term of the contracts should be, and further refine the process. On April 1, 2015, the Committee met again to review and comment on the policy. The Committee unanimously recommended that the City Council approve the policy, limiting the City Attorney's signature

authority to \$25,000 without prior City Council approval.

On June 16, 2015, the City Council adopted the policy and authority of the City Attorney for retention of outside counsel, approved the proposed panel of attorneys, and instructed the City Attorney to return to the Governmental Affairs Committee in six months to review the policy implementation.

On March 26, 2019, the City Council approved certain First Amendments to Attorney Services Agreements for the panel attorneys, extending the terms of the agreements by an additional three years.

On May 17, 2022, the City Council approved a panel of 21 law firms, with listed areas of specialty practice, which was a reduction from the previous panel of 43 law firms. At that time, the City Attorney's Office indicated that a Request for Proposal for Legal Services would be issued in 2023 to refresh the bench of qualified attorneys on the approved panel for certain areas of specialized practice.

RFP 2226 for Outside Legal Counsel Professional Services Panel was posted on January 31, 2023. On June 28, 2023, the City Council awarded RFP 2226 to the 16 law firms which now comprise the current panel of outside legal counsel.

BACKGROUND:

The City has a 7.617% (approximately 137.1 MW) entitlement in the coal fired Intermountain Power Plant ("IPP") Generating Station Units 1 and 2 located near Lynndyl, Utah, which were declared to be commercially operational in June 1986 and May 1987, respectively. The City has entered into a power sales agreement with the Intermountain Power Authority, as the owner of IPP, which obligates the City to purchase its share of capacity and energy of IPP on a take-or-pay basis (the "IPP Contract"). The IPP Contract expires in 2027. There are 35 utilities that purchase the output of IPP, consisting of the City, and the California cities of Los Angeles, Anaheim, Burbank, Glendale and Pasadena, 23 members of the IPA and six rural electric cooperatives serving loads in the States of Utah, Arizona, Colorado, Nevada and Wyoming. IPP is operated by the City of Los Angeles, through its Department of Water and Power ("LADWP").

On May 7, 2019, the City Council authorized the City's exit from the IPP Repower Project upon the expiration date of the current Power Sales Contract on June 15, 2027. However, until 2027, the City still has an entitlement in the IPP output, and there are certain Power Supply Revenue Bonds debt service costs associated with the project. From time to time, the City will participate in the refinancing of such debt, which requires the issuance of City Attorney Opinion letters related to the Power Sales Contract, including certain Utah law questions. An attorney licensed in Utah and with expertise in Utah law is required to issue such opinions on behalf of the City.

In the past, the City has retained Eric Todd Johnson of ETJ Law, Inc. to represent the City in such transactions and wishes to add such law firm to its panel of outside counsel should such services be needed again. The City typically splits such legal costs with Anaheim, Pasadena, Burbank and Glendale.

STRATEGIC PLAN ALIGNMENT: The retention of experienced outside counsel to provide legal advice 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:

There is no fiscal impact associated with the legal service agreements or extensions thereto. Any impact will occur when an individual firm/attorney is retained for a particular engagement.

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