



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: OCTOBER 5, 2021

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: ESTABLISH THE OUTSIDE LEGAL COUNSEL BUDGET FOR THE BOARD OF ETHICS WHEN THE BOARD OF ETHICS EXERCISES ITS DISCRETION TO USE OUTSIDE COUNSEL IN LIEU OF THE CITY ATTORNEY'S OFFICE TO ADVISE THE BOARD OF ETHICS AND/OR ITS HEARING PANEL(S) ON SPECIFIC MATTERS, RECOGNIZE THE CITY ATTORNEY'S STATUTORY DUTY TO CONTRACT FOR SAID SERVICES AND APPROPRIATE THE NECESSARY FUNDS TO COVER THE COST FOR THE SERVICES RENDERED BY OUTSIDE LEGAL COUNSEL - SUPPLEMENTAL APPROPRIATION

ISSUE:

The issues for City Council to consider are (1) to establish the outside legal services budget for the City's Board of Ethics when the Board of Ethics exercises its discretion to use outside counsel in lieu of the City Attorney to advise the Board of Ethics and its hearing panels on specific matters; (2) to recognize the City Attorney's statutory duty to contract for said services and appropriate the necessary funds to cover the cost for the services rendered by outside legal counsel; and (3) by at least five affirmative votes, appropriate the necessary funds in the amount of \$100,000.

RECOMMENDATIONS:

That the City Council:

- 1) Establish the outside legal counsel budget for the Board of Ethics, when the Board of Ethics exercises its discretion to use outside counsel in lieu of the City Attorney to advise the Board and its hearing panels on specific matters;
- 2) Recognize the City Attorney's statutory duty to contract for Legal services when the Board exercises its discretion to use outside counsel in lieu of the City Attorney's Office to advise the Board and its hearing panels on specific matters; and
- 3) By at least five affirmative votes, approve a supplemental appropriation in the General Fund, City Attorney's Office Board of Ethics expenditure account.

BACKGROUND:

Under the Riverside Municipal Code, the Board has the discretion to use outside counsel in lieu of the City Attorney to advise the Board and its hearing panels on specific matters. If the Board exercises its discretion to use outside legal counsel, the City Attorney shall then contract with the appropriate parties. Riverside Municipal Code section 2.78.040, "Implementation," provides the following:

"To achieve the objectives of this chapter, the following mechanisms shall be followed.

* * *

C. The City Attorney, or his or her designee, shall serve as a resource to those persons covered by this chapter to assist them in understanding and abiding by the provisions therein. Use of outside legal counsel in lieu of the City Attorney to advise the Board of Ethics and its hearing panels on specific matters shall be at the discretion of the Board of Ethics. If outside legal counsel is so desired, the City Attorney shall contract with the appropriate party(ies)."

On September 2, 2021, the Board of Ethics exercised its discretion to use outside legal counsel in lieu of the City Attorney's Office. The City Attorney, in accordance with the statutory obligation imposed by Riverside Municipal Code section 2.78.040, has contracted with an appropriate party to provide the required services. Based upon the foregoing, it is necessary to establish a budget and appropriate the funds necessary in order to fund the services required by the Board of Ethics. The City Council is requested to authorize and appropriate, by at least five affirmative votes, General Fund resources in an amount not to exceed \$100,000 to the City Attorney's Office for this purpose. An annual request for funding in the amount of \$100,000 will be included in future budget submissions for each fiscal year.

STRATEGIC PLAN ALIGNMENT:

The use of outside counsel to advise the Board of Ethics and its hearing panels on specific matters supports the priorities of the City of Riverside's Envision Riverside 2025 Strategic Plan, by contributing to Strategic Priority No. 5 High Performing Government by supporting the following:

Goal 5.3– Enhance communication and collaboration with community members to improve transparency, build public trust, and encourage shared decision-making.

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

1. **Community Trust** – The City of Riverside is transparent and makes decisions based on sound policy, inclusive community engagement, involvement of Boards and Commissions, and timely and reliable information. The use of outside counsel to advise the Board of Ethics and its hearing panels on specific matters complies with the Riverside Municipal Code and ensures that the Board of Ethics is properly advised of the requirements of the Riverside Municipal Code and state law.
2. **Equity** – The use of outside counsel to advise the Board of Ethics and its hearing panels on specific matters ensures that the Board of Ethics is properly advised of the

requirements of the Riverside Municipal Code and state law to ensure compliance with the same.

3. **Fiscal Responsibility** – The use of outside counsel to advise the Board of Ethics and its hearing panels on specific matters ensures that the Board of Ethics receives legal advice to properly discharge their duties pursuant to the Riverside Municipal Code and state law.
4. **Innovation** – The use of outside counsel to advise the Board of Ethics and its hearing panels on specific matters ensures that the Board of Ethics is properly advised of the requirements of the Riverside Municipal Code and state law so that the public is informed that the City of Riverside is inventive and timely in meeting the community’s changing needs and prepares for the future through collaborative partnerships and adaptive processes.
5. **Sustainability & Resiliency** – The use of outside counsel to advise the Board of Ethics and its hearing panels on specific matters ensures that the Board of Ethics is properly advised of the requirements of the Riverside Municipal Code and state law so that the public is informed that the City of Riverside is committed to meeting the needs of the present without compromising the needs of the future and ensuring the City of Riverside’s capacity to persevere, adapt and grow during good and difficult times alike.

FISCAL IMPACT:

The total fiscal impact of this action is \$100,000 to be appropriated from General Fund reserves. There are sufficient reserves to accommodate this appropriation. An annual request for funding in the amount of \$100,000 will be included in future budget submissions for each fiscal year. Depending on how often the Board of Ethics exercises their discretion to utilize outside counsel, the total fiscal impact may increase.

Prepared by: Phaedra A. Norton, City Attorney
Approved as to
availability of funds: Kristie Thomas, Assistant Chief Financial Officer
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