



RIVERSIDE PUBLIC UTILITIES

Board Memorandum

BOARD OF PUBLIC UTILITIES

DATE: MAY 12, 2025

SUBJECT: APPROVE AN INCREASE AN EXISTING BUDGET THE LAW FIRM OF STRADLING YOCCA CARLSON & RAUTH IN AN AMOUNT NOT TO EXCEED \$40,000 FOR SPECIALIZED LEGAL ASSISTANCE IN THE APPEAL OF THE CASE ENTITLED PONGS V. CITY OF RIVERSIDE

ISSUE(S):

To consider approval of an increase to the legal budget for the law firm of Stradling Yocca Carlson & Rauth in an amount not to exceed \$40,000 to continue to defend the City in the appeal of the case entitled *Pongs v. City of Riverside*, a reverse validation lawsuit challenging the validity of City-issued municipal bonds.

RECOMMENDATION(S):

That the Board of Public Utilities recommend that the City Council approve an increase to the legal budget for the law firm of Stradling Yocca Carlson & Rauth in an amount not to exceed \$40,000 to continue to defend the City in the appeal of the case entitled *Pongs v. City of Riverside*, a reverse validation lawsuit challenging the validity of City-issued municipal bonds.

BACKGROUND:

On October 25, 2022, and November 8, 2022, the City approved resolutions authorizing the issuance of water revenue bonds in an aggregate principal amount not to exceed \$70,000,000 for the benefit of the City's water utility. The law firm representing the City as bond counsel was Stradling Yocca Carlson & Rauth.

On December 22, 2022, a lawsuit was filed against the City entitled *Pongs v. City of Riverside*, seeking to invalidate those resolutions. This lawsuit was brought pursuant to Code of Civil Procedure sections 860 et seq. and is known as a reserve validation lawsuit.

Plaintiffs alleged that the City violated Proposition 218 because (1) by issuing bonds, the City included projected future water rate increases to repay the bonds and thus the City has obligated itself to enact those rate increases, and therefore will necessarily increase rates without first complying with the notice, hearing and protest provisions of Proposition 218; and (2) the City cannot use rate funds to pay for the pensions of retired employees, because those costs are not a cost of providing water service.

The case was heard on August 18, 2023. The trial court ruled in favor of the City on all causes of action and a Judgment of Dismissal was entered on October 17, 2023. The appellate court ruled in favor of the City on February 24, 2025. Plaintiffs have now petitioned for Supreme Court review.

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 Stradling Yocca Carlson & Rauth provides specialized legal services for the issuance of municipal debt and defense of reverse validation actions challenging the issuance of municipal debt. The City Attorney's Office does not currently have that specialized legal knowledge.

The City Council has previously approved the retention of this law firm and this law firm has executed an Attorney Services Agreement with the City of Riverside for the provision of legal services. The approved trial budget is \$125,302.23. and the approved appellate budget is \$60,000. Additional fees have been and will be incurred in the appellate stage of the lawsuit and a budget increase of \$40,000 is requested.

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 the increase to the budget for the law firm of Stradling Yocca Carlson & Rauth is in an amount not to exceed \$40,000. Funds are budgeted and available in Public Utilities Account No. 6210000-421100.

Prepared by: Susan D. Wilson, Assistant City Attorney
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Certified as to
availability of funds: Kristie Thomas, Finance Director/Assistant Chief Financial Officer
Approved by: Rafael Guzman, Assistant City Manager
Approved as to form: Rebecca McKee-Reimbold, Interim City Attorney