



Consent Item 9

TO: East Bay Community Energy Board of Directors

FROM: Melissa Brandt, Senior Director of Public Policy and Deputy General Counsel

SUBJECT: Amendment to Legal Services Agreement with Keyes & Fox LLP for Regulatory Advocacy

DATE: March 11, 2019

Recommendation

Approve an Amendment to the Legal Services Agreement with Keyes & Fox LLP in an amount not to exceed \$125,000 to provide regulatory legal advocacy services.

Background and Discussion

Keyes & Fox LLP (Keyes & Fox) is an Oakland-based law firm that was founded in 2008 by Jason Keyes and Kevin Fox. Keyes & Fox started out representing non-profit clients that were focusing on eliminating regulatory roadblocks to clean energy market development across the U.S. The firm now advocates on a wide range of legal, policy and project development issues for corporate, governmental, non-profit and other clients. Their attorneys have represented clients in regulatory proceedings in over 40 states.

In 2018, Keyes & Fox represented a consortium of Community Choice Aggregators (CCAs) that included East Bay Community Energy (EBCE) in the “Energy Resource Recovery Account” (ERRA) regulatory proceedings at the California Public Utilities Commission (CPUC). This proceeding involved implementing the Power Charge Indifference Adjustment Amount (PCIA) in rates charged to CCA (including EBCE) customers. This advocacy has resulted in material reductions in the PCIA amount that PG&E would otherwise have charged to CCAs.

Because of the PCIA decision, the ERRA-related advocacy required a longer, more sustained effort than initially anticipated. The additional work required a first, and now second, amendment of the “not to exceed” amount in the original contract. In addition to ongoing work on the current ERRA activities, EBCE seeks additional assistance from Keyes & Fox for advocacy services in 2019 and 2020 in 2020 ERRA proceedings, PG&E’s general rate case, and the CPUC’s “safety culture investigation” of PG&E, as set forth in the attached contract amendment. These proceedings will extend through 2020.

As EBCE's standard Legal Services Agreement has not materially changed from the form used in 2018, staff recommends signing a contract amendment with Keyes & Fox with updated contract terms, rather than executing a new agreement.

Fiscal Impact

This amendment will result in an additional not to exceed \$125,000 spend across calendar years 2019 and 2020. Regulatory legal advocacy services are included in the current fiscal year budget at this level.

Attachments

- A. Second Amendment to Legal Services Agreement with Keyes & Fox LLP