



Consent Item 14

TO: East Bay Community Energy Board of Directors

FROM: Howard Chang, Chief Operating Officer

SUBJECT: Legal Services Agreements Approval for Fiscal Year 2023-2024

DATE: June 21, 2023

Recommendation

Adopt a Resolution authorizing the CEO or designee to negotiate and execute contracts with select legal vendors in accordance with the legal and other departmental budgets, up to \$3,897,000 in accordance with the approved budget for Fiscal Year 2023-2024.

Background and Discussion

The budget staff presented to the Board of Directors tonight includes a total of \$3,897,000 for legal vendors across the Legal, Power Resources, Policy, and Local Development, Marketing & Finance budgets. Staff is seeking approval to contract with the following law firms:

- Nixon Peabody - Finance
- Braun Blasing Smith Wynne - Policy
- Law Office of David Peffer - Policy
- Davis Wright Tremaine - Power Procurement/ Local Development/Marketing
- Hall Energy Law - Power Procurement
- Keyes and Fox - Policy/Compliance/Power Procurement/Local Development
- Richards, Watson and Gershon - General Counsel Services
- The Law Offices of Joseph F. Wiedman - Policy
- Wilson Sonsini Goodrich Rosati - Power Procurement/ Local Development
- Meyers Nave - Power Resources

All firms were utilized in fiscal year 2022-2023. All firms except Meyers Nave and the Law Office of David Peffer were utilized in fiscal years 2020-2021, 2019-2020, and all except three were utilized in fiscal year 2018-2019. Staff is pleased with the prior services and is interested in maintaining strong working relationships as it seeks to extend the current Agreements with the vendors for fiscal year 2022-2023. EBCE recently initiated a new relationship with Meyers Nave for legal services related to power procurement contracts.

The budget breakdown across these functions is anticipated to be:

Outside General Counsel: \$500,000

Regulatory & Policy \$267,000

Power Procurement \$850,000

Local Development \$780,000

Marketing \$50,000

General Legal, including Litigation Support \$1,430,000

Fiscal Impact

Staff anticipates contract amounts with the selected legal vendors in varying amounts that may exceed \$100,000. Staff is seeking approval of a Resolution that would authorize staff to negotiate and execute Agreements with the identified legal vendors for a total amount not to exceed \$3,897,000, as budgeted.

It is likely that the spend for all legal vendors will be less than \$3,897,000, but it would be in EBCE's best interest to have those funds available to increase the spend of critical contracts for legal services if necessary.

Attachments

- A. Resolution Authorizing the Chief Executive Officer to Negotiate and Execute Agreements with Selected Law Firms for Fiscal Year 2023-2024

RESOLUTION NO. R-2023-xx

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE AN AGREEMENTS WITH SELECTED LEGAL VENDORS FOR FISCAL YEAR 2023-2024

WHEREAS The East Bay Community Energy Authority (“EBCE”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020. The city of Stockton, located in San Joaquin County was added as a member of EBCE and party to the JPA in September of 2022,

WHEREAS in June 2018, EBCE issued a broad legal services RFP to select law firms to provide legal expertise across various staff functions, including legislative and regulatory policy, power procurement, general counsel services, local development, finance, and other areas; and

WHEREAS EBCE has previously utilized the following firms to secure such legal expertise: Nixon Peabody, Braun Blaising Smith Wynne, The Law Office of David Peffer, Davis Wright Tremaine, Hall Energy Law, Keyes and Fox, Richards, Watson and Gershon, The Law Office of Joseph F. Weidman, and Wilson Sonsini Goodrich Rosati, and Meyers Nave; and

WHEREAS EBCE is pleased with the prior services by these law firms; and

WHEREAS EBCE has entered into Consulting Services Agreements with the aforementioned law firms and desires to amend certain Agreements in varying amounts that may exceed \$100,000 for Fiscal Year 2023-2024.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The CEO or a designee is hereby authorized to negotiate and execute Consulting Services Agreements and necessary Amendments for one-year terms with firms providing legal services. These firms may include Nixon Peabody; Braun Blaising Smith Wynne; The Law Office of David Peffer, Davis Wright Tremaine; Hall Energy Law; Keyes and Fox; Richards, Watson and Gershon; The Law Office of Joseph F. Weidman; Wilson Sonsini Goodrich Rosati; and Meyers Nave.

Section 2. The Consulting Services Agreements and necessary Amendments may be for varying amounts that exceed \$100,000 but the total spend on legal services shall not exceed \$3,897,000 through June 30, 2024.

ADOPTED AND APPROVED this 21th day of June, 2023.

Elisa Márquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board