



Consent Item 4

TO: East Bay Community Energy Board of Directors
FROM: Leah S. Goldberg, General Counsel
SUBJECT: Contract Amendment with Davis Wright Tremaine, LLP
DATE: May 16, 2018

Recommendation

Approve an Amendment to the Agreement with Davis Wright Tremaine LLP to add \$50,000 to the Professional Services Agreement and to modify the scope of work to include regulatory work related to resource adequacy.

Background and Discussion

EBCE entered into an Agreement with Davis Wright and Tremaine on November 13, 2107, for an amount not to exceed \$75,000 in legal services related to the CPUC Power Charge Indifference Adjustment rulemaking and negotiating with PG&E on matters related to the Jack London Development Project.

EBCE finds that it may need to engage in regulatory interactions related to obtaining resource adequacy and will need specialty legal assistance. Since Davis Wright Tremaine LLP has the expertise to assist EBCE and since EBCE already has an agreement with the firm, staff proposes that EBCE and Davis Wright Tremaine amend the Agreement for legal services to include this scope of work and to increase the amount on the Agreement by \$50,000. This would bring the total not to exceed amount on the Davis Wright Tremaine Agreement to \$125,000.

Conclusion

For the above reasons, staff requests Board approval of an amendment to the Agreement with Davis Wright Tremaine, LLP.

Attachment:

- A. Amendment to Agreement with Davis Wright Tremaine, LLP

Amendment to Agreement with Davis Wright Tremaine, LLP
for Specialty Legal Services

This Amendment to Agreement with Davis Wright Tremaine, LLP for Specialty Legal Services ("Amendment") is made this 16th day of May 2018, by and between the East Bay Community Energy Authority, a Joint Powers Agency formed under the laws of the State of California ("EBCE") and Davis Wright Tremaine, LLP, a California limited liability partnership ("DWT"), for the purposes of adding a task to the existing scope of work and associated funding.

Recitals

- A. EBCE and DWT entered into that certain agreement for legal services dated November 13, 2017, ("Agreement") wherein DWT agreed to assist EBCE with regulatory proceedings related to the Power Charge Indifference Adjustment proceedings at the California Public Utilities Commission and the negotiating with PG&E for the Jack London Development Project.
- B. The total compensation for these two items was capped at \$75,000 for work performed on such matters in the calendar year 2017.
- C. EBCE is in need of additional legal assistance related to resource adequacy, and DWT has the expertise and manpower available to assist EBCE in this area.

Now therefore, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The "Fees and Costs; Billing and Payment" section of the Agreement will be amended to add Fifty Thousand Dollars (\$50,000) to the fixed fee amount of Seventy-Five Thousand Dollars (\$75,000) for a not-to-exceed amount of total compensation under the Agreement of One Hundred Twenty-Five Thousand Dollars (\$125,000) to cover all costs and legal fees.
2. Schedule 1 will be amended to include the following:

Matter #3:

DWT will assist EBCE as needed on resource adequacy issues and associated regulatory matters on a time and materials basis using the billing rates as discussed in the Agreement. Such assistance may include giving advice to the CEO, the General Counsel and the Deputy General Counsel, draft necessary documents, reviewing documents drafted by EBCE legal staff, participating in legal strategy discussion, and communicating with the CPUC or any other regulatory agency or entity as necessary to advance EBCE's interests related to resource adequacy or similar regulatory matters.

3. All other terms and conditions in the Agreement not otherwise modified by this Amendment will remain in full force and effect.

In witness whereof, the Parties have entered into this Amendment on the date written above.

East Bay Community Energy Authority,
A Joint Powers Authority

Davis Wright Tremaine, LLP,
A California Limited Liability Partnership

Scott Haggerty Date
Chair Board of Directors

Patrick Ferguson, Date
Partner

Approved as to form:

Leah S. Goldberg, General Counsel