



CITY COUNCIL STAFF REPORT

DATE: June 21, 2017 Consent Calendar

SUBJECT: PROFESSIONAL SERVICES AGREEMENT, CLYDE & CO US LLP

FROM: David H. Ready, City Manager

BY: Edward Z. Kotkin, City Attorney

SUMMARY

In December 2016, under his signature authorization, the City Manager retained legal services of a specialized attorney through the legal firm of Clyde & Co US LLP, ("Clyde & Co.") to represent the City regarding legal matters associated with the South Coast Air Quality Management District ("AQMD"), directly related to the operation of the City's Municipal Co-Generation Plant. The required legal services provided by Clyde & Co. are anticipated to exceed the City Manager's authorization, and this action will approve a formal agreement with Clyde & Co. increasing the maximum aggregate contract fees to be one hundred thousand dollars (\$100,000.00), *i.e.*, an additional seventy-five thousand dollars (\$75,000.00) beyond the fees previously approved by the City Manager. The agreement covers transactional legal services as the City continues to work with AQMD.

RECOMMENDATION:

- 1) Approve Agreement No. _____, a Professional Services Agreement, with Clyde & Co. US, LLP, for specialized legal services and representation associated with the South Coast Air Quality Management District in a total amount not to exceed one hundred thousand dollars (\$100,000.00), in a form substantially similar to that published with this staff report, subject to minor modification, within the reasonable discretion of the City Attorney;
- 2) Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

The City of Palm Springs has established the Office of the City Attorney as an in-house department to lead and coordinate in the direction and provision of all legal services to the City. Prior to the current employment of the City Attorney, the City was represented by Woodruff, Spradlin & Smart ("WSS"). In December 2016, at the recommendation of

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the City Manager, the City required the services of a special attorney to represent the City regarding legal matters associated with the South Coast Air Quality Management District ("AQMD"), directly related to the operation of the City's Municipal Co-Generation Plant. As WSS represents AQMD as another client, WSS was unable to represent the City on this matter, and the City Manager was required to select an outside special attorney to represent the City regarding the legal issues related to the AQMD.

The City Manager retained the specialized legal services of Clyde & Co. in an amount not to exceed twenty-five thousand dollars (\$25,000.00) under his signature authorization. Subsequently, Clyde & Co. has represented the City with respect to ongoing work with AQMD, and has provided legal services consistent with the City's requirements and expectations for resolving certain legal matters relating to the operation of the City's Municipal Co-Generation Plant.

It is anticipated that the required specialized legal services will continue for the near term, and it is recommended that the City Council maintain this legal relationship with Clyde & Co. to ensure successful resolution of the legal matters affecting the Co-Generation Plant. It is recommended that City Council approve a formal agreement with Clyde & Co. in an amount not to exceed an aggregate one hundred thousand dollars (\$100,000.00).

The City is being represented by Ms. Frances Keeler, Senior Counsel with Clyde & Co., who was formerly employed as a legal counsel by AQMD and has a practice focused to a degree on the technical background and legal rules and regulations adopted by AQMD specific to the operation of the Co-Generation Plant. Legal fees associated with this assignment are \$450/hour for Senior Counsel; \$315/hour for Senior Associates; and \$225/hour for Junior Associates.

The City Attorney has reviewed the agreement proposed for execution with Clyde & Co., and discussed its terms with Ms. Keeler. Mr. Kotkin anticipates no difficulty in securing Clyde & Co.'s execution of this agreement as drafted, subject to minor modification, within the reasonable discretion of the City Attorney.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION:

This agreement is not a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) section 15378. This Ordinance is organizational or administrative activity by the City of Palm Springs in furtherance of its police power, and will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.

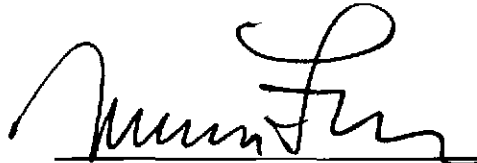
FISCAL IMPACT:

Sufficient funding is budgeted and available in contractual legal services, Account No. 001-1200-43220.

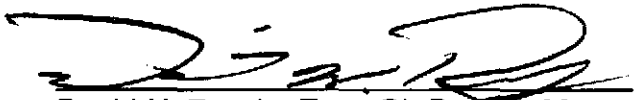
SUBMITTED:



Edward Z. Kotkin, City Attorney



Marcus L. Fuller, Assistant City Manager



David H. Ready, Esq., Ph.D., City Manager

Attachments:

Professional Services Agreement