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CITY ATTORNEY

REPORT NO. R 22 - 0023
JAN 25 2022

REPORT RE:

**DRAFT ORDINANCE DIRECTING THE TRANSFER OF SURPLUS MONEY FROM
THE POWER REVENUE FUND OF THE DEPARTMENT OF WATER AND POWER
TO THE RESERVE FUND OF THE CITY DURING FISCAL YEAR 2021/22**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 22-0087

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance authorizes the transfer of \$225,015,000 from the Power Revenue Fund of the Department of Water and Power (Department) to the City's Reserve Fund. The Board of Water and Power Commissioners (Board) has determined, following an audit of the Department's financial data for fiscal year 2020/21, that this amount is surplus available for transfer to the Reserve Fund.

Background

The Board is given City Charter mandated authority to control the revenue produced from the Power Revenue Fund as long as the Board deems those funds necessary for the uses prescribed in Charter Section 679. These include: operation and maintenance; retirement of indebtedness; development of assets; reimbursements to other City departments for services or materials; promotion of business or conservation; employee benefits; maintaining bond reserve funds; and General Fund transfers. The

Board resolution authorizing the transfer of this surplus money from the Power Revenue Fund states that such transfer is made subject to all covenants made by the Department with respect to transfers from this fund.

Summary of Ordinance Provisions

Charter Section 344 is the sole Charter criterion for intra-City transfers to the Reserve Fund. It provides, in relevant part, at Subsection (b):

"The Council may, by ordinance, direct that a transfer be made to the Reserve Fund from surplus money in the Water Revenue Fund or Power Revenue Fund with the consent of the Board of Water and Power Commissioners ..., as provided in this section."

Charter Section 344 defines surplus in the Power Revenue Fund "as the amount remaining in the ... Power Revenue Fund, less outstanding demands and liabilities payable out of the fund, at the end of the fiscal year prior to the fiscal year in which the transfer is to be made, as shown by audited financial statements." Charter Section 344 clarifies that any transfer made shall be consistent with any applicable contractual obligations. Charter Section 344 also describes the process through which the Board may withhold its consent to make the transfer in whole or in part if, despite the existence of a surplus as defined, it finds that making the transfer would have a material negative impact on the Department's financial condition in the year in which the transfer is to be made.

Council Rule 38 Referral

Pursuant to Council Rule 38, the draft ordinance has been presented to the Board of Water and Power Commissioners.

If you have any questions regarding this matter, please contact Assistant City Attorney Richard Tom at (213) 367-4580. He or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM:RT:cj
Transmittal