



June 24, 2022

Brian Probolsky, CEO
Orange County Power Authority

Sent Via Electronic Mail To: bprobolsky@ocpower.org

Dear Mr. Probolsky:

At its special meeting on June 14, 2022, the City Council (**City Council**) of the City of Irvine (**City**) directed City staff to facilitate the commencement of an audit of the Orange County Power Authority (**OCPA**) pursuant to the provisions of the Capital Loan Agreement between the City and OCPA. This letter is a part of City staff's effort to implement that direction.

By way of background, the Capital Loan Agreement between the City and OCPA provides that "[p]rior to January 1, 2023, the City may audit the Authority's expenditure of Pre-Launch Costs to confirm that such expenditures have been made consistent with the purposes of this Agreement." (Capital Loan Agreement, section 4.1.) "Pre-Launch Costs," in turn, are defined as "approximately \$2,500,000 for working capital to pay for implementation costs through a projected launch of the CCA program in 2022." (Capital Loan Agreement, Recital E.) Section 1.2 of the Capital Loan Agreement further indicates that the Pre-Launch Costs "shall be used by the Authority for working capital costs associated with the Authority's launch, anticipated in 2022."

For ease of reference, in this letter the term "**Loaned Funds**" means the \$2,500,000 loaned by the City to OCPA pursuant to Section 1.2 of the Capital Loan Agreement, and the term "**Pre-Launch Costs**" means OCPA's working capital costs associated with OCPA's launch and/or the launch of OCPA's CCA program.

The City's objective is to ensure that the Loaned Funds were expended as required by the Capital Loan Agreement. To meet that objective, we have prepared (1) a set of information requests and (2) a set of document requests. This gives OCPA the opportunity to explain and demonstrate how the Loaned Funds have been spent, while also providing the back-up documentation that the City believes is necessary to validate the expenditures.

To that end, we request that you provide complete responses to the following questions:

1. As of June 21, 2022, how much, if any, of the Loaned Funds remains unspent by OCPA?
2. As of June 21, 2022, how and on what specific items (e.g., services, products, personnel, fees, etc.) have the Loaned Funds been spent?

3. As of June 21, 2022, what vendors have received payment(s) from the Loaned Funds? In responding to this question, we request that you provide the date of each request for payment, the name of the entity making the request, the amount of the request for payment, and the date of payment.
4. As of June 21, 2022, what employee costs have been funded from the Loaned Funds. In responding to this question, we request that you provide the name and title of the employee, the date of each payment, and the amount of the payment.
5. As of June 21, 2022, what other OCPA expenses have been paid for from the Loaned Funds? In responding to this question, for each expense we request that you provide a description of the expense, the basis/rationale for designating the expense a Pre-Launch Cost, the recipient of the payment, and the amount of the payment.
6. To the extent that, as of June 21, 2022, the amount of unspent Loaned Funds plus the amount of spent Loaned Funds is not equal to \$2,500,000, we request that you provide an explanation for that discrepancy.
7. Other than the Loaned Funds, as of June 21, 2022 had OCPA received any other funds since its creation? If so, what are the other funding sources and how much funding has OCPA received from each such source?
8. Has OCPA paid for any Pre-Launch Costs from any source other than the Loaned Funds? If so, for each such expenditure provide the date of the request for payment, the payee, the amount of the request for payment, and the date of the payment.

In addition to responding to these questions, we request that you to provide any additional information that you have that demonstrates how the Loaned Funds have been spent and/or otherwise demonstrates your compliance with the Capital Loan Agreement.

Separate from the he questions posed above, the City also requests that you provide all writings¹ that refer or relate to the receipt, accounting, and expenditure of the Loaned Funds. This request is made pursuant to Section 4.1 of the Capital Loan Agreement and pursuant to the California Public Records Act. The categories of documents sought by the City are as follows:

¹ For purposes of this letter, the term writing has the meaning assigned to that term in the California Public Records Act, namely: "any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." (Cal. Gov. Code, section 6252(g).)

1. All writings that refer or relate to OCPA's request for and receipt of the Loaned Funds from the City.
2. All writings that refer or relate to OCPA's expenditures of the Loaned Funds.
3. All writings that refer or relate to OCPA's expenditures on Pre-Launch Costs.
4. All writings comprising, referring, or relating to requests for payment received from vendors, contractors, or consultants to OCPA, which were or will be paid from Loaned Funds.
5. All writings comprising, referring, or relating to requests for payment received from vendors, contractors, or consultants to OCPA, which constitute Pre-Launch Costs.
6. All writings comprising, referring, or relating to payments from OCPA to its employees which were or will be paid from the Loaned Funds.
7. All writings comprising, referring, or relating to payments from OCPA to its employees which constitute Pre-Launch Costs.
8. All writings that refer or relate to the means by which OCPA accounted for and/or tracked its expenditures of the Loaned Funds.
9. All writings that refer or relate to the means by which OCPA accounted for and/or tracked its expenditures on Pre-Launch Costs.

We have tried to be clear in presenting these requests, but if any portion of any request seems unfocused or unclear to you, please let me know and I will work with you to refine and clarify the request. (*See Government Code, section 6253.1.*) As to timing, we respectfully request that you provide the requested documents within the time otherwise required by the Public Records Act. If a complete production cannot be made within that time frame, we request that you produce documents on a rolling basis as they become available.

We look forward to receiving your response, and to commencing and completing the audit authorized under Section 4.1 of the Capital Loan Agreement. Please feel free to contact me at (310) 663-9837, or via email at ochi@cityofirvine.org, if you should have any questions.

Best regards,



Oliver Chi
City Manager