



DATE: December 8, 2020

CATEGORY: Consent

DEPT.: City Attorney's Office,
Community Development

TITLE: **Additional Expenditures for Legal Services by Burke, Williams & Sorensen, LLP**

RECOMMENDATION

1. Authorize expenditures by the Community Development Department in an amount not to exceed \$455,000 for outside legal services performed by Burke, Williams & Sorensen, LLP, associated with Notice of Funding Availability projects, Lot 12, general matters related to housing programs and transactions, general planning, and land use.
2. Appropriate and transfer \$108,000 from the General Non-Operating Fund to the Planning Division, Community Development Department, and appropriate \$45,000 in the Below-Market-Rate Fund, Community Development Department, to fund these services for Fiscal Year 2020-21. (Five votes required)

BACKGROUND

The City has an existing agreement with Burke, Williams & Sorensen, LLP (BWS), for outside legal services for Notice of Funding Availability (NOFA) projects, general matters related to housing programs and transactions, general planning, and land use. The Community Development Department (CDD) Fiscal Year 2020-21 budget includes funding for general planning, land use, and housing matters as well as for legal assistance associated with the Lot 12 project. As described in the Analysis section below, staff has identified a greater-than-anticipated need for outside legal services. The purpose of this report is to seek Council authorization to increase expenditures with BWS above \$100,000, as required by City Council Policy A-10, and approval to appropriate additional funds.

ANALYSIS

Additional outside legal services are needed to address the impacts of COVID-19 and the greater than anticipated volume and complexity of projects, including the following items to date for the current fiscal year:

- Modification of City's Density Bonus Ordinance, including review of State Density Bonus Law.
- Implementation of Senate Bill (SB) 330.
- Implementation of SB 35.
- Review of multiple residential projects and the application of various housing laws and requirements to the project.
- Displacement response, including replacement requirements.
- Tenant Relocation Assistance Ordinance.
- Fair housing.
- Accessory dwelling units.
- Eviction moratorium.

Each of these items has complexities that require extensive evaluation and deliberation to ensure that policies and programs are properly developed. Additionally, several of these items are interrelated with each other or other land use and housing issues, which adds further challenge to the analysis and subsequent policy and program development.

To address the above needs, staff estimates additional expenditures with BWS in the amount of \$355,000, resulting in total expenditures of \$455,000. Staff seeks Council authorization for this total expenditure amount to fund legal assistance for general planning, land use, and housing matters as well as the Lot 12 project.

There is \$302,000 in funding in the current CDD budget to fund these outside legal services, leaving a shortfall of \$153,000. Consequently, staff recommends that Council appropriate and transfer \$108,000 from the General Non-Operating Fund and appropriate \$45,000 in Below-Market-Rate (BMR) Housing Fund to support the legal

services for general planning, land use, and related housing matters for Fiscal Year 2020-21.

FISCAL IMPACT

There is sufficient available balance in the General Non-Operating Fund and the BMR Fund for the increase in legal services needed.

ALTERNATIVES

1. Do not authorize the expenditures requested.
2. Provide other direction to staff.

PUBLIC NOTICING – Agenda posting.

Prepared by:

Nicole C. Wright
Assistant City Attorney

Wayne Chen
Assistant Community Development
Director

Approved by:

Krishan Chopra
City Attorney

Aarti Shrivastava
Assistant City Manager/
Community Development Director

Audrey Seymour Ramberg
Assistant City Manager/
Chief Operating Officer

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