



CITY OF MOUNTAIN VIEW

MEMORANDUM

CSFRA, Community Development Department

DATE: March 26, 2018

TO: Members of the Rental Housing Committee

FROM: Jannie L. Quinn, City Attorney

SUBJECT: Professional Services for the Implementation of the CSFRA

RECOMMENDATION

Provide direction to staff regarding procurement of professional services (legal, hearing officer, etc.) for the upcoming fiscal year.

INTRODUCTION AND ANALYSIS

This matter was agendized at the direction of the Rental Housing Committee (RHC) Chair in advance of the upcoming discussions regarding the budget for the next fiscal year.

As the RHC prepares to enter the budget process for the next fiscal year, this is an appropriate time to review whether the current approach is meeting the needs of the program. The focus of this staff report is on the professional services that are currently being provided by independent contractors. Staff seeks direction from the RHC on how it wishes to obtain these services going forward.

Currently City staff, supplemented by independent contractors, implements the Community Stabilization and Fair Rent Act (CSFRA). For example, the RHC contracts with Project Sentinel to provide first point of contact and counseling services for landlords and tenants, and to administer the hearing process, including prehearing facilitation as well as the formal hearing, and recruitment of hearing officers for the petition process. The City Attorney's Office provides some legal guidance, but due to workload and the need for legal advice from subject matter experts on rent stabilization, the RHC contracts with the law firm of Goldfarb & Lipman to serve as special counsel for the RHC. Legal counsel provides advice to both the RHC and staff about a variety of issues, including the petition process, adjudication of petitions, drafting of regulations, and litigation.

City staff initially proposed using independent contractors to provide these services because the necessary expertise was not available within City staff and also because this approach allows the most flexibility to scale resources up or down during the implementation of the new rent stabilization program. To date, staff has received a total of 14 petitions, 12 of which have been formally filed and served. Three of the four tenant petitions have been settled, and one tenant petition has been denied. Of the 10 landlord (“LL”) petitions, one LL petition has been decided, one has been settled, two have been withdrawn by the LL, and four petitions are in process. The remaining two LL petitions are currently being reviewed for completeness. It is hard to predict based on this data how many petitions will be filed, or how many hearings will be scheduled on an annual or ongoing basis.

This report explores three potential options for the RHC to consider along with a brief description of the time and resources for each of the options.

1. Continue contracting with the current service providers. This option provides the most flexibility because the program can request the vendor to staff up or down to accommodate changes in the workload of the RHC, respond to issues that arise, and assist with the implementation and administration of the CSFRA. In addition, the contractor is paid for the services that are actually rendered. This approach has the least impact on the City staff resources assigned to the RHC.
2. A second option would be to issue a Request for Proposals (RFP). An RFP can be a useful tool to determine available specialized resources in the market and to make an informed selection of professionals such as attorneys, hearing officers, and mediators, who in this case perform specialized tasks related to the petition process and provide legal services to assist staff, the hearing officers, and the RHC. The RFP process involves a number of steps:
 - a. First, the RHC would define the scope of professional services to be included in an RFP. The scope of services will be drafted based on an evaluation of the RHC’s needs. For example, the administrative hearing procedures, workload, and other staff functions would be reviewed to determine the level of services required.
 - b. Once the RFP is developed, qualified vendors are identified and responses are solicited. Staff then evaluates the responses to find the most qualified and suitable professionals to assist the RHC. For example, an RFP for legal services would target attorneys with experience representing public agencies in rent-control jurisdictions. An RFP for administrative hearing procedures would seek hearing officers with experience adjudicating petitions for rent

adjustment and mediators with experience in landlord-tenant matters. The RFP process is most successful when a number of qualified professionals participate in a competitive process.

Finally, once an RFP is issued and responses are received, they are customarily evaluated by objective criteria and involve a scoring system to aid in the evaluation process. A small number of staff usually serves as the evaluation committee. Contracts are customarily awarded to professionals with the highest average score.

Issuing an RFP is a significant undertaking and would require the dedication of staff resources. For context, the RHC currently is going through an RFP process to procure an information technology (IT) system. The entire process from RFP preparation to contract implementation is estimated to take over six months. Although the procurement of professional services in the present context is less complicated than the procurement of an IT system, a similar time frame should be expected, with a significant impact on staff in several departments.

The RHC can determine what level of involvement it desires to have in the RFP process, and what level of responsibility it desires City staff to manage. Typically, governmental bodies (including the City Council) delegate most of the responsibilities of issuing and evaluating RFPs to City staff after providing initial, high-level direction of what types of services and professionals are sought. The RHC can provide direction to staff on whether to pursue an RFP approach and specify what the parameters of the process will be.

If the RHC is interested in initiating an RFP process, staff would recommend retaining the present contractual arrangements while an RFP process is conducted. Staff estimates an RFP process could be completed in the first half of Fiscal Year 2018-19 with professional services hopefully in place in the second half of the fiscal year.

As with the first option, the resulting contracts could be structured to provide flexibility in terms of scaling the resources to accommodate the workload of the RHC.

3. The third option is request the City hire additional staff dedicated to the RHC that would be recovered in the Rental Housing Fee, and the RHC would reimburse the City for these positions. This approach could also be incorporated into the budget process. It is less flexible than utilizing contract services as it would require the City to create fully budgeted positions and would include salary and benefits

(including retirement benefits) for each position. The RHC could also explore hiring staff in limited-term positions, meaning the positions are funded for one fiscal year at a time or these could be identified as ongoing positions. This approach is likely to impact the recruitment and hiring process, as it may be less desirable than an ongoing position.

Based on the City's current hiring process, it generally takes approximately three to four months to complete the recruitment process, although the timeline can vary greatly depending on the position and the number of applicants and the capacity of the Human Resources Department. Other factors that could extend the timeline include whether the job classifications and job descriptions already exist. If not, these items would need to be created. In addition, Human Resources would need to allocate resources to the recruitment process and would need to prioritize any recruitments requested by the RHC with other requested City position recruitments.

This is also the least flexible option as there wouldn't be the ability to staff up or down to accommodate changes in the work load of the RHC in the implementation and administration of the CSFRA. Also, City staff positions would be classified service positions under the City Charter and subject to the personnel rules for the classified service.

If the RHC is interested in this option, staff would report back on an estimated timeline to complete the recruitment process, and if necessary, a recommendation to retain the present contractual arrangements until staffing levels are commensurate with the workload.

With each of these options, the RHC will want to balance the desired level of services, the flexibility provided by each option given the limited data that is available regarding the administration and implementation of the CSFRA because it is still in its initial stages and cost and impact on the RHC budget and consequently the Rental Housing Fee.

Staff seeks direction from the RHC on how it wishes to obtain these services going forward in order to prepare the budget for the next fiscal year.

PUBLIC NOTICING – Agenda posting.

JLQ/AK/5/CDD/RHC
010-03-26-18M-E

cc: City Council

CM, FASD