

City of Sacramento

Legislation Text

File #: 2019-01115, Version: 1

Title:

Supplemental Agreement for Legal Services for the 2035 General Plan Litigation

File ID: 2019-01115

Location: Citywide

Recommendation:

Pass a Motion/Adopt a Resolution: 1) **Authorize** the City Manager **or City Manager's designee** to transfer \$80,000 from **the Community Development Department FY2018/19 available year-end resources in the General Fund (Fund 1001)** the Development Services Fund (Fund 2016) to the General Plan Update **Multi-year Operating** pProject budget (I22400000) for litigation services; and 2) **authorize** the City Attorney **or City Attorney's designee** to execute a supplemental contract with Stoel Rives, LLP in an amount not to exceed \$579,000 for litigation assistance with the lawsuit challenging the 2035 General Plan and associated Master Environmental Impact Report (MEIR).

Contact: Leslie Z. Walker, Senior Deputy City Attorney, (916) 808-5346, City Attorney's Office; Brett Witter, Supervising Deputy City Attorney, (916) 808-5346, City Attorney's Office **Office of the City Attorney**

Presenter: None

Attachments:

1-Description/Analysis

2-Supplemental Agreement 2015-2134-3

3-Resolution

Description/Analysis

Issue Detail: Staff is seeking Council authorization for a supplemental legal services agreement with Stoel Rives, LLP in an amount not to exceed \$579,000 for expenses associated with the 2035 General Plan lawsuit. The lawsuit brought by an unincorporated association, Citizens for Positive Growth and Preservation (CPGP), challenges City Council's March 3, 2015 approval of the 2035 General Plan and associated master environmental impact report (MEIR).

The City Attorney's Office maintains a pre-approved list of qualified outside counsel available to assist with litigation. Stoel Rives, LLP has been~~was~~ selected as the most qualified firm to strongly represent and defend the City's interest in this lawsuit. This contract amount will cover expenses incurred since the initiation of the lawsuit through and including any appeal of any decision of the trial court~~the hearing on the appeal of the trial court decision~~.

It is~~Staff recommendeds~~ that the Council authorize the City Manager to transfer \$80,000 from ~~from the Community Development Department FY2018/19 available year-end resources in the General Fund (Fund 1001) to~~ the Development Services Fund (Fund 2016) fund balance to the General Plan Update project budget~~Multi-year Operating Project (I22400000)~~ and authorize the City Attorney to enter into a ~~supplemental~~ contract for legal services with Stoel Rives, LLP in an amount not-to-exceed \$579,000.

Policy Considerations: The funding is required to obtain representation and defense of the City in this litigation.

Economic Impacts: Not applicable.

Environmental Considerations: Contracting for outside legal services is an administrative activity that will not result in direct or indirect physical changes in the environment and is not a project subject to CEQA review. CEQA Guidelines section 15378(b)(5).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: A lawsuit was filed regarding the Council's March 3, 2015 approval of the 2035 General Plan and certification of the Master Environmental Impact Report (MEIR).

Funding is required for payment to the City's outside legal counsel for expenses associated with representing and defending the City of Sacramento in the lawsuit.

Financial Considerations: Staff is seeking Council approval for the transfer of \$80,000 from the Development Service Fund (Fund 2016) fund balance to the General Plan Update project budget (I22400000) for litigation services. As the Community Development Department is projecting positive net year-end results for FY2018/19 in Building Inspection, Building Plan Check, Customer Services/Permit Center, and Planning Operations, staff recommends transferring \$80,000 from the Community Development Department FY2018/19 available year-end resources in the General Fund (Fund 1001) to the General Plan Update Multi-year Operating Project (I22400000) to support the litigation services. There will be no additional impact to the General Fund.

Local Business Enterprise (LBE): Not applicable.

Background: On March 3, 2015, Council adopted the 2035 General Plan and certified the associated Master Environmental Impact Report (MEIR). In April 2015, the petitioners filed an action challenging the City Council's approval of the 2035 General Plan and certification of the Master Environmental Impact MEIR Report.

The City Attorney's Office maintains a pre-approved list of qualified outside counsel available to assist with litigation. In order to assist with the City's defense²⁰¹⁵, the City has selected the law firm of Stoel Rives, LLP, to represent the City in this case. The trial court hearing on the merits took place in August 2017. In January 2018, the trial court issued its judgment in favor of the City. Petitioners appealed. The appeal is fully briefed and the parties await a date for oral argument.

Since June, the parties have been working through a challenging process to certify the administrative record. The work on the case has also included court filings and hearings.