



COMMUNITY DEVELOPMENT DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: September 7, 2021

Subject

Supplemental Staff Report regarding the Consideration of a Professional Services Agreement for Plan Check Services for the Westport Cupertino Project and associated budget modifications.

Recommended Action

That City Council consider authorizing the City Manager to sign Professional Services Agreements with ICCI for \$210,000 and NV5 for \$90,000 to provide plan check services for the proposed Westport Cupertino project; and, consider approving Budget Modification #2122-161 increasing appropriations by \$300,000 and increasing revenues by \$461,000 in the Community Development Department's Building Division (Accounts 100-73-714 750-031 and 100-73-714 410-415 respectively; page 436-7 of the FY 2021-22 Adopted Budget).

Discussion

Several questions were brought up at the first reading of this item at the City Council meeting on August 17, 2021. The following responses have been prepared by staff address these questions.

Question 1: Include the selection of the consultants in the contract. Could the contract include the names of the third-party consultant?

Response: Two separate contracts have been prepared and attached, including the names of the selected 3rd party consultants: Independent Code Consultants, Inc. (ICCI) and NV5. There were a total of _ proposals submitted and these two were selected at the recommended funding levels based on the evaluation of the proposals.

Question 2: Amendment issues for contracts – Is the City Manager empowered to amend contracts of \$175,000 or less?

Response: Yes, the City Manager currently has authority to amend a contract if 1) the amended contract amount does not exceed \$175,000, and 2) sufficient funding is available.

In this case, the City Council is considering a budget modification to increase expenditures by \$300,000 to cover the ICCI contract for \$210,000 and the NV5 contract for \$90,000. Any increase to the ICCI contract would require City Council approval since it is already over the City Manager's contracting authority of \$175,000. The City Manager would have authority to amend the NV5 contract, but only up to the Manager's \$175,000 authority, and even then only if funding from another budgeted source were available (e.g., the City Manager Discretionary Fund). Also note that any transfer of funding for this purpose would be reported to Council as part of the quarterly budget reporting process.

Question 3: Request to see notations of expenditures and revenues in Building Plan Review Program (100-73-714)

Response: The \$300,000 of additional appropriations and \$461,000 of additional revenues were not included in the FY 21-22 Adopted Budget since the budget document was created at a point in time (7/1/2021) before these additional amounts were known. If and when the City Council approves this or any budget modification, the adopted budget is modified by the Council's action and reported out to Council in the quarterly budget reports as well as through the City's financial transparency portal at www.cupertino.org/open by selecting "Amended Budget" in the navigation panel.

In this case, the Building Plan Review Program Budget will be modified to include \$461,000 in additional "Licenses and Permits" revenues and \$300,000 in "Special Projects" expenditures (both on Budget page 437).

Question 4: How can transparency be ensured for communications related to the plan review of building permit applications for the Westport Cupertino project between the City's 3rd party consultant and the applicant?

Response: A clause in the contract was added requiring the Consultants to copy the City on any direct email correspondence related to plan review between the 3rd party consultant and the applicant.

Sustainability Impact

No sustainability impact.

Fiscal Impact Section:

This item will increase revenues and appropriations in the Community Development Department's Building Division (100-73-714). Increased plan check fee revenue of \$461,000 will be collected from Westport and increased costs of \$300,000 will be incurred for the plan check contracts with ICCI and NV5. Note that the contract costs are approximately 65% of the fees collected per the City's fee schedule.

Prepared by: Albert Salvador, Asst. Director, Community Development Department,

Reviewed by: Ben Fu, Community Development Director

Dianne Thompson, Assistant City Manager

Approved for Submission by: Greg Larson, City Manager

Attachments:

A – Draft Contract – ICCI

B – Draft Contract – NV5