



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: September 21, 2021

Subject

Initiate Sixth-Cycle General Plan Housing Element update, consider awarding a consultant agreement to complete the Sixth-Cycle General Plan Housing Element update, related rezoning, and all necessary environmental review as required under State law, and associated budget modification.

Recommended Action

That the City Council adopt Resolution No. ____ (Attachment A) to:

1. Initiate the Sixth-Cycle General Plan Housing Element update;
2. Award a consultant agreement for the Sixth-Cycle General Plan Housing Element update, related rezoning, and all necessary environmental review as required under State law;
3. Authorize the City Manager to execute a consultant agreement based on the scope of work with EMC Planning Group to provide these services to the City, for an amount not to exceed \$748,040 (Attachment B);
4. Authorize the City Manager to approve no-cost contract change order(s) with EMC Planning Group; and
5. Approve Budget Modification #2122-165 to increase appropriations in 100-71-702 750-101 (page 414 of the Fiscal Year 2021-22 Adopted Budget) by \$774,248 and increase revenues in 100-71-702 440-430 by \$352,613 for the Sixth-Cycle General Plan Housing Element Update, related rezoning, public noticing, legal counsel, and all necessary environmental review as required under State law for the fiscal year 2021-22.

Discussion

State law requires all jurisdictions to periodically update their Housing Element in the General Plan. The City is currently required to update its Housing Element every eight years. The current update of the Housing Element is considered the 6th Cycle update and is due to be completed by January 31, 2023.

In order to complete the 6th Cycle update in a timely manner, and avoid being placed on a four-year Housing Element update cycle and litigation risk, the City needs to begin preparing the update at this time. As such, staff is recommending that the Council authorize initiation of the Housing Element update. Additional background on the Housing Element and the City's current draft Regional Housing Needs Allocation (RHNA) obligations to accommodate and plan for housing in the 2023-2031 period have been detailed in prior staff reports dated April 27, 2021¹ and May 11, 2021².

In order to assist the City, proposals were requested from qualified consultants or consultant teams to complete a Housing Element update, related rezoning, and all necessary environmental review as required under State law, in a manner consistent with the Regional Housing Needs Allocation 6 (RHNA 6) planning period (2023-2031) and in compliance with AB 686 - Affirmatively Furthering Fair Housing (AFFH).

The scope of the consultant services requested include the following:

- Project management and coordination
- Community education and engagement
- Rezone and modify applicable land use documents that will require revisions in response to the Housing Element update. These may include:
 - The Heart of the City Specific Plan
 - The City of Cupertino Municipal Code
- Prepare CEQA documentation
- Attend and present at public hearings
- Complete an Assessment of Affirmatively Furthering Fair Housing (possibly)
- Identify potential and actual governmental and non-governmental housing constraints
- Review the existing Housing Element and assess successes and progress of goals, policies, or programs
- Prepare a Sites Inventory in consultation with the City
- Prepare draft housing goals, policies, programs, and quantified objectives
- Prepare the Draft Housing Element and Final Housing Element documents
- Conduct final draft hearings, final adoption, and HCD certification
- Update the Safety and Land Use Elements of the General Plan, as required by State law concurrent with a Housing Element update

¹ 4/27/21 staff report available online at:

<https://cupertino.legistar.com/LegislationDetail.aspx?ID=4920241&GUID=0529920D-3BC8-4A7B-AFEE-759CA6E1C0EC&Options=&Search=>

² 5/11/21 staff report available online at:

<https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&Options=&Search=>

Consultant Planning firms were invited to submit proposals between April and July 2021, and interviews with the most qualified firms that submitted responses were conducted mid-August. Staff conducted a thorough review of proposals and is recommending EMC Planning Group as the lead consultant for this project. Since the contract amount is greater than \$175,000, City Council approval is required to authorize the City Manager to execute the contract (see Attachment B).

Sustainability Impact

No sustainability impact.

Fiscal Impact

The City has already budgeted \$295,000 for the 6th Cycle Housing Element update as part of the Adopted Budget 100-71-702 750-101 (page 414 of the FY 2021-22 Adopted Budget). However, the proposal (see Attachment B) and associated project expense estimates exceed the existing project budget; therefore, staff is requesting Budget Modification No. 2122-165 to increase project appropriations in 100-71-702 750-101 by \$774,248 to account for estimated consultant project costs, project noticing (e.g., citywide postcards, legal ads, etc.), legal review fees, and a 20% project contingency. Additional appropriations will be funded from the unassigned fund balance in the General Fund that was estimated at \$35.7 million (page 147 of the FY 2021-22 Adopted Budget).

It should be noted that the City has also been awarded \$300,000 in Local Early Action Program (LEAP) grant funds from the California Department of Housing and Community Development (HCD) and \$52,613 in Regional Early Impact Planning (REAP) non-competitive grant funds from the Association of Bay Area Governments (ABAG)/Metropolitan Transportation Commission (MTC) for assistance with preparation of the Housing Element for a total of \$352,613.

LEAP and REAP grants are reimbursement-based funds and are to be applied to the Housing Element update process, including, but not limited to covering the costs of consultant(s) connected to public outreach, re-zoning, and CEQA review. All work relating to the LEAP and REAP funding must be completed by September 30, 2023. Therefore, it is recommended that the Council record the revenues from the two grants that have been awarded.

A project estimate is indicated on the next page.

Item	Budget	Estimates	Difference
Revenue			
Estimated Grant Funds	\$0	\$352,613	+\$352,613
LEAP	\$0	+\$300,000	+\$300,000
REAP	\$0	+\$52,613	+\$52,613

Expenses			
Estimate (100-71-702 750-101)	\$295,000		\$0
Consultant (EMC) Contract ³		\$748,040	(\$748,040)
Citywide Noticing – Newspaper Legal Ad; Postcard and Postage		\$18,000	(\$18,000)
Legal Review Fees		\$125,000	(\$125,000)
Project Contingency (20%) ⁴		\$178,208	(\$178,208)
Totals	\$295,000	\$1,069,248	(\$774,248)

Next Steps

Upon authorization from the Council, the City Manager will execute the contract and the consultant will be authorized to commence the activities outlined in their scope of work to prepare a compliant Housing Element by the statutory deadline.

Prepared by: Gian Paolo Martire, Senior Planner

Erika Poveda, Associate Planner

Piu Ghosh, Planning Manager

Reviewed by: Benjamin Fu, Director of Community Development

Dianne Thompson, Assistant City Manager

Christopher Jensen, City Attorney

Approved by: Greg Larson, Interim City Manager

Attachments:

A - Draft Resolution

B - Contract, Scope of Work, & Fee Estimate

³ Consultant total includes CEQA EIR (Optional Task L) and Rezoning Heart of the City Specific Plan (Optional Task M) and 20% contingency.

⁴ Project contingency to account for additional meetings, noticing, and/or subconsultants.