



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: William A. Gilchrist
Director, Planning &
Building Department

SUBJECT: Objective Design Standards and
Project Review Streamlining

DATE: May 23, 2022

City Administrator Approval

Date: Jun 9, 2022

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution:

- 1. Authorizing The City Administrator To Negotiate, Award And Execute A Professional Services Agreement To Dyett & Bhatia In An Amount Not To Exceed Seven Hundred And Twenty Thousand Dollars (\$720,000) That Includes Sixty-Four Thousand And Five Hundred Dollars (\$64,500) Contingency Amount For A Period Of Approximately One Year For Providing Technical Expertise in the Creation of Project Review Streamlining Procedures And Objective Design Standards; And**
- 2. Requesting To Use Three Hundred and Seventy Thousand Dollars (\$370,000) From The Development Services Fund (Fund 2415) Balance To Finance A Portion Of The Contract Awarded To Dyett And Bhatia To Provide Technical Expertise in the Creation of Project Review Streamlining Procedures And Objective Design Standards; And**
- 3. Making Appropriate California Environmental Quality Act (CEQA) Findings.**

EXECUTIVE SUMMARY

The City of Oakland (City) Planning and Building Department (PBD) intends to enter into a contract with Dyett & Bhatia (Consultant) to provide technical expertise in the creation of objective design standards and in the recommendation of regulatory changes to streamline design review procedures for a maximum not to exceed contract amount of maximum not to exceed \$720,000 that includes \$64,500 contingency amount, for a period of approximately 12 months. The Consultant will work with the City's Bureau of Planning staff to recommend processes, procedures, regulations, and objective design and development standards to streamline the Planning approval of housing and commercial building types in the City (Objective Design Standards). In particular, the Consultant will make recommendations for streamlining project review, including adopting Planning Code changes to amend design review procedures, and adopting Objective Design Standards.

City Council
June 21, 2022

BACKGROUND / LEGISLATIVE HISTORY

Oakland is in a housing crisis that includes rising costs, increased rent burden, displacement, and widespread demographic change. At the root of this crisis is the limited availability of housing in Oakland, especially available housing to moderate- and low- income residents. At the same time, the combination of existing very high volume of planning applications and lengthy existing design review processes is causing a backlog in processing development applications and delays in approvals of applications for housing and affordable housing. PBD is looking at multiple ways to reduce the existing backlog and to reduce any potential delays in approving of housing projects, including hiring more Planning staff and improving the existing design review procedures. With a design review framework based on Objective Design Standards in place, the speed for planning project approvals would increase substantially resulting in more housing projects, including affordable housing projects, being approved faster. In addition, the deadline to expend the State grant funds that will be used to cover a significant portion of the total consultant fee is no later than August 2023. Since the Objective Design Standards project may take up to 12 months to complete, there is urgency to approve this resolution as soon as possible.

Recent State legislation laid out the legal ground for prohibiting cities from denying housing project that comply with applicable, objective, general plan, zoning, and subdivision standards and criteria, including design review standards, unless approval would have a specific adverse impact on public health and safety.

- 1) On January 1, 2018, Senate Bill 35 (SB 35) went into effect providing for a ministerial (by right and without discretion) approval of affordable, mixed-use, and supportive housing projects that meet certain objective criteria.
- 2) Housing Accountability Act amended in 2019 by Senate Bill 330 (SB 330) effectively prohibited local jurisdictions from using discretionary design review process for reviewing and approving a wide range of multifamily housing proposals. Instead, Cities are required to use only *objective* design review standards for certain projects. “Objective” is defined as involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and the public official. In addition, the law prohibits the city from adopting any new design standards unless they are objective design standards.
- 3) On March 21, 2019, City Council adopted Resolution No. 87579 C.M.S. requesting the Bureau of Planning staff to study and the Planning Commission to consider incentives to encourage transit-oriented housing, including affordable housing, in the City, including but not limited to streamlining the permitting process for transit-oriented housing, especially affordable housing.

The City also applied for and received a grant from Senate Bill (SB) 2 (2017), or the Building Homes and Jobs Act¹, which established an additional recording fee on real estate documents to

¹ 10/15/2019 C.M.S. No. 87889:
<https://oakland.legistar.com/LegislationDetail.aspx?ID=4148591&GUID=2797E539-D6CE-4376-B79D-B7C7E4C416A6&Options=ID|Text|&Search=87889>

be used to increase the supply of affordable housing in California. The total grant amount approved and appropriated by the City Council on October 15, 2019 per Resolution No. 87889 C.M.S. is \$625,000. A portion of the total grant funding (\$350,000), being used to fund technical assistance in developing and implementing policies that will expedite housing development and increase housing supply in the City. The remaining portion of the grant amount (\$275,000) has been already appropriated to fund a portion of the General Plan Update project by C.M.S. 88847 on October 5, 2021. This contract will help implement two of the objectives of the SB-2 grant:

- Expedited permit processing to speed up project approvals. This includes a separate, expedited, non-discretionary permit review of housing projects that are consistent with the General Plan and Planning Code, and meet established criteria.
- Objective Design Review Standards to expedite processing of approving affordable housing and projects near major transit corridors.

Complying with the State legislation and responding to the pressing need for a more streamlined approval process for housing in Oakland, PBD released a Request for Proposals (RFP) to find a qualified consultant team to develop objective design and development standards and to recommend a streamlined design review procedure based on the new objective standards. In addition to housing related project needs described in SB 2, PBD is interested in expanding the streamlined design review approach based on objective design standards more broadly to projects consisting of a wide array of building types throughout the City, capturing the full range of residential development and most types of commercial development. This broader approach is necessary to reduce a constant backlog of development applications and to simplify the permitting process on general.

PBD launched the RFP in September 2021, and after receiving no qualifying proposals, re-issued the RFP in February 2022. PBD received only one qualifying proposal from a consultant team led by Dyett and Bhatia. The Department of Workforce and Employment Standards (DWES) found that the team's proposal is compliant with Oakland's Local and Small Local Business Enterprise (L/SLBE) requirements (see **Attachment A**). After reviewing the proposal carefully, PBD believes that the team has the necessary experience to fulfill the contract requirements. The projected contract period is approximately for one (1) year from the date when the contract is signed and finalized.

ANALYSIS AND POLICY ALTERNATIVES

Adopting the attached Resolution will enable the City to execute a contract with Dyett & Bhatia to provide technical services in producing drafts of Objective Design Standards to simplify design review and streamline approvals for a wide variety of development projects, especially much-needed affordable housing. Once the new design review framework based on objective standards is implemented, most residential, mixed-use, and commercial proposals would be approved much faster, freeing up Planning staff to take on projects that may still require discretionary review because of their scale, complexity, impact, or importance for the City. In addition, this project advances **Citywide Priority for housing, economic, and cultural security**.

Objective Design Standards would provide the City with a two-tiered approach, one streamlined approach with new objective standards, and one more flexible approach with the City's existing discretionary design review process. Applicants will have the choice which design review track they prefer to follow. This dual framework to design review would benefit the Planning Bureau by reducing staff time spent reviewing each application that will help to reduce the existing backlog of applications. This new approach will also benefit Oakland development community and residents greatly by reducing wait times to receive certain Planning permit approvals, making development requirements more transparent from the beginning, and guiding applicants to submit proposals they know will be approved faster when the objective requirements are met.

The Objective Design Standards will provide uniformly verifiable design standards consistent with State Housing Crisis Act and Housing Accountability Act requirements. At the same time, the standards will ensure that future development is sensitive to its surroundings and design context, and respects Oakland's architectural diversity and historic heritage. Any architectural design standards proposed shall take Oakland's Historic Resources into consideration.

Because SB 2 funds can only be used to cover a portion of the contract that relates to the development of objective standards for projects containing at least a two-thirds housing component and the proposed scope of work would also apply to the full range of residential development and most types of commercial development, funding would come from two sources: SB 2 funds (\$350,000) and the City's Development Services Fund (\$370,000). In this way, funding for the creation of Objective Design Standards for non-housing related projects, including office and mixed-use projects with less than 2/3 share of residential component, will come from the Development Services Fund (2415). SB-2 funds will only be used for housing-related project needs as described above. SB-2 funds must be expended before August 2023 and before the projected completion date of this contract anticipated in May 2023.

FISCAL IMPACT

Funding for non-housing related portion of the contract will be appropriated from the Development Services Fund (2415) fund balance for up to \$370,000. The rest of the funding (\$350,000) for housing-related portion of the contract is going to come from Fund (2159), Planning Organization (84211), SB2 Grant Project (1005771), for the total contract amount not to exceed \$720,000.

PUBLIC OUTREACH / INTEREST

The public was properly notified regarding the Request for Proposal. A website² has been created to inform the public about Objective Design Standards and to keep public up to date. The website also provides a way for the public to ask questions. Once the contract is signed, the Consultant will implement a Community Engagement strategy consistent with requirements of City's equity goals.

COORDINATION

² <https://www.oaklandca.gov/topics/objective-design-standards>

This report and legislation have been reviewed by the Office of the City Attorney and by the Budget Bureau. PBD coordinated internally with DWES, Historic Preservation, Zoning and Development Planning staff in the preparation and review of the RFP.

SUSTAINABLE OPPORTUNITIES

Economic: A design review process based on a set of objective standards that will be established after this contract is completed will result in faster processing of development applications and more predictable review outcomes for a broad range of development proposals, including affordable housing projects, and subsequently, faster production of housing and other development types. Uniformly verifiable standards will provide a clear guidance to applicants on initial stages of the development process and give developers certainty that their proposals will be approved if they follow the standards. This will reduce the overall project timeline and cost burden on developers. In addition, construction creates more jobs and new buildings result in new residences and/or businesses in Oakland. Streamlined production of a broad range of development will benefit the local economy.

Environmental: Since most development in Oakland is infill development, projects that will be approved under the new framework will be built within established neighborhoods and will contribute to fostering more dense and walkable neighborhoods with greater use of bicycling and transit. The objective standards will utilize state-of-the-art urban design practices appropriate for specific locations and enhancing urban environment of existing neighborhoods.

Race & Equity: Faster production of housing, and specifically, affordable housing as a result of the streamlined design review framework based on objective standards will result in increased availability and choices of housing in Oakland. Streamlined production of affordable housing during current housing crisis will benefit lower-income Black, Indigenous, and People of Color (BIPOC) communities most vulnerable to the rising costs of housing in Oakland. Jobs created by increased construction activity will be available to Local and Small Local Businesses. In addition, existing BIPOC homeowners and developers would benefit from a more predictable and streamlined design review process.

Oakland Equity Indicators Report demonstrates that the housing affordability crisis is adversely affecting and displacing lower- BIPOC communities disproportionately and at a much higher rate than other ethnic groups.³ BIPOC residents are the most burdened by the high costs of housing and are experiencing the highest likelihood of loan denial resulting in a high risk of displacement. As a result, there has been a steady decline of African American residents in Oakland. According to a report by PolicyLink, between 2010 and 2020, Oakland lost 34,000 African American residents – the most of any ethnic group – followed by Native American residents with 18 percent decline in population. The main reason cited for this decline was the housing cost burden.⁴ These realities, in addition to the history of exclusionary zoning and the discriminatory practice of “redlining,” affect BIPOC communities to this day.

³ Oakland Equity Indicators Report. Pp. 91-103: <https://cao-94612.s3.amazonaws.com/documents/2018-Equity-Indicators-Full-Report.pdf>

⁴ Oakland’s Displacement Crisis: As Told by the Numbers. Policy Link: <https://www.policylink.org/sites/default/files/PolicyLink%20Oakland's%20Displacement%20Crisis%20by%20the%20numbers.pdf>

Existing Conditions and Barriers Report identifies financial, permitting, and regulatory barriers that impact BIPOC communities disproportionately.⁵ Although the report's focus is on Accessory Dwelling Units (ADUs), the challenges to create other types of dwelling units for BIPOC residents are the same. Specifically, the report states the permitting process is the most common cause of delays in the project delivery that often lead to increases in project costs.⁴ Traditional discretionary design review process is slow and require significant resources from applicants to finance a lengthy development process. Most projects that go through discretionary design review require public notification and may be stopped or delayed significantly. Although most developers of housing face these barriers, they are more difficult to overcome for historically disadvantaged groups who do not have access to resources necessary to endure a long and expensive permitting process. Streamlined permit review based on objective standards known to developers from the beginning, that will be achieved by this contract, will help BIPOC communities twofold: by reducing the permitting and regulatory barrier, and by creating more affordable housing faster as a result of reduced permitting timelines.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The preliminary actions of accepting and appropriating grant funding, appropriating City funds and authorizing the City Administrator to enter contract negotiations, are not decisions that commit the City to a definite course of action with respect to implementation of developed proposals and therefore are not subject to CEQA. This action is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3) (common sense exemption and 15306 (information collection).

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution:

- 1. Authorizing The City Administrator To Negotiate, Award And Execute A Professional Services Agreement To Dyett & Bhatia In An Amount Not To Exceed Seven Hundred And Twenty Thousand Dollars (\$720,000) That Includes Sixty-Four Thousand And Five Hundred Dollars (\$64,500) Contingency Amount For A Period Of Approximately One Year For Providing Technical Expertise in the Creation of Project Review Streamlining Procedures And Objective Design Standards; And**
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- 3. Making Appropriate California Environmental Quality Act (CEQA) Findings.**

⁵ Oakland ADU Initiative. Existing Conditions and Barriers Report. Pp.13-24: <https://cao-94612.s3.amazonaws.com/documents/Oakland-ADU-Research-Report-Jan-2020-Rev-June-2020.pdf>

For questions regarding this report, please contact Ed Manasse, Deputy Director of Planning and Building at (510) 238-7733.

Respectfully submitted,



WILLIAM A. GILCHRIST
Director, Planning and Building Department

Reviewed by:

Ed Manasse, Deputy Director of Planning and Building
Laura Kaminski, Strategic Planning Manager

Prepared by:

Ruslan Filipau, Planner III
Planning and Building Department

Attachments (1):

- A. Department of Workforce and Employment Standards Compliance Analysis



INTER OFFICE MEMORANDUM

Department of Workforce & Employment Standards (DWES)

TO: Ruslan Filipau,
Planner III

FROM: Mary Mayberry,
Interim Director,
DWES *Mary Mayberry*

THROUGH: Vivian Inman, *V. Inman*
Sr. Contract Compliance Officer

PREPARED BY: Sophany Hang *Shang*
Contract Compliance Officer

SUBJECT: Request for Proposals (RFQ) for
Objective Design Review (Re-advertisement)

DATE: April 21, 2022 Revised

The Department of Workplace and Employment Standards (DWES) reviewed one (1) proposal in response to the above referenced project. Below is the outcome of the compliance evaluation for (a) the minimum 50% Local and Small Local Business Enterprise (L/SLBE) participation requirement; and (b) compliance with the Equal Benefits Ordinance (EBO).

Responsive to EBO and L/SLBE Policies	Proposed Participation					Proposed Participation Earned Credits and Discounts				EBO Compliant? Y/N
	Total LBE/ SLBE	LBE	SLBE	*VSLBE	Total Credited participation	L/SLBE Participation Preference Points	Years in Oakland Preference Points	Oakland Workforce Preference Points	Total Participation Points	
Dyett & Bhatia	54.90%	0.0%	54.90%	0.0%	54.90%	2 pts	0 pts	0.0 pts	2 pts	Y

Comments: As noted above, firm met the minimum 50% L/SLBE participation requirement. Firm is EBO compliant.

Should you have any questions you may contact Sophany Hang, Contract Compliance Officer at (510) 238-3723.