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OAKLAND

2018 NOV 29 PM 1:59

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Darin White
Fire Chief

Greg Minor
Assistant to the City
Administrator

SUBJECT: Reallocate Salary Savings for
Supplemental Fire Code Plan Review

DATE: November 14, 2018

City Administrator Approval

Date:

11/20/18

RECOMMENDATION

Staff Recommends That the City Council Adopt A Resolution Amending Resolution Number 87041 C.M.S. To Authorize the City Administrator, Or Her Designee, To Reallocate Salary Savings in the City of Oakland's Fire Prevention Bureau During Fiscal Year 2018-2019 To Fund the Existing Professional Service Agreements For On-Call Fire Code Plan Review Services With 4Leaf, Inc., West Coast Code Consultants, CSG Consultants, Inc., and TRB and Associates, Inc.

EXECUTIVE SUMMARY

There is a backlog of developments in need of building and fire code plan review due to a tremendous increase in commercial development in the City of Oakland, including hundreds of cannabis operations applying for special activity permits. To address this backlog, the Bureau of Building and the Oakland Fire Prevention Bureau underwent competitive Request for Proposals (RFP) processes in 2016 and 2017 and entered into contracts with four firms to provide supplemental plan check review pursuant to City Council's authorization in Resolution Numbers 86302 and 87041 C.M.S.

In order to fully utilize these contracts, staff recommends that the City Council authorize the reallocation of Fire Prevention Bureau salary savings from fiscal year 2018-2019 towards on-call fire code plan review services. This will ensure that the full backlog of commercial, industrial and residential developments in need of fire code plan review are reviewed in a timely fashion, which will expedite these developments obtaining approvals from other departments and agencies and further the City's economic development goals.

City Council authorization to use salary savings in this instance is governed by the City's Consolidated Fiscal Policy that limits the use of salary savings to five percent per year. While there is sufficient salary savings to cover the contract work, it will exceed the five percent threshold.

Item: _____
Finance Committee
December 4, 2018

BACKGROUND / LEGISLATIVE HISTORY

Staffing Levels Prompt RFPs For Supplemental Plan Review Services

The Bureau of Building in the Planning and Building Department and the Oakland Fire Prevention Bureau in the Oakland Fire Department assist builders, property owners, architects, engineers, and realtors in understanding and processing permits related to building construction. The Bureau of Building and Oakland Fire Prevention Bureau include engineering plan check staff who review and approve building proposals for code compliance related to building safety, fire/life safety, accessibility, energy conservation, and other related issues. In order to maintain acceptable turn-around times during periods of high volume of building activity, the Bureau of Building issued RFPs in 2016 and 2017 for supplemental engineering plan check services and the City Council approved the Bureau of Building and Fire Prevention Bureau entering into contract with four firms to provide these services.

First, in 2016 the Bureau of Building issued an RFP to provide on-call plan check services. Prior to issuing the RFP and in accordance with current Memorandum of Understanding (MOUs) terms the Bureau issued formal notification to International Federation of Professional and Technical Engineers (IFPTE) Local 21 and Service Employees International Union (SEIU) 1021. IFPTE Local 21 did not provide a response, and SEIU 1021 approved issuance of the RFP following a meet and confer. As authorized by Resolution No. 86302 C.M.S., the City subsequently entered into contract with CSG Consultants, Inc. and TRB + Associates, Inc. for on-call plan check services.

Second, in 2017 the Bureau of Building issued an additional RFP to provide on-call plan check services. Again, prior to issuing the RFP the Contracts and Compliance Division formally notified IFPTE Local 21 and SEIU 1021. Neither SEU 1021 nor IFPTE Local 21 objected to the issuance of the 2017 RFP. Subsequently, the City Council approved Resolution No. 87041 C.M.S., which authorized the Bureau of Building and Fire Prevention Bureau entering into contract with 4Leaf, Inc. and West Coast Code Consultants, Inc.

Influx of Cannabis Applications and Backlog of Development Projects

Since special activity permit applications became available for the full supply chain of cannabis operations in May 2017, the City of Oakland has received over one-thousand applications for non-retail cannabis operations. This surge in cannabis applications is in part due to the absence of a permitting process for non-retail cannabis operations prior to 2017 and in part due to state cannabis laws now requiring local approval of all cannabis operations. Since fire code plan review is a prerequisite to obtaining a City of Oakland cannabis special activity permit, there are now hundreds of cannabis operations simultaneously seeking review and approval from the Fire Prevention Bureau.

The total backlog of residential, commercial and industrial developments currently in need of plan check review is approximately five hundred and twenty-two (522) developments. Of this, approximately one hundred and sixty-seven (167) developments are for cannabis operations.

Salary Savings Exist from Additional Fire Prevention Bureau Positions

During the Fiscal Year (FY) 2017-2019 Biennial Budget process the Oakland City Council approved the addition of fourteen (14) positions in the Fire Prevention Bureau; eight (8) positions in FY 2017-18 and an additional six (6) positions in FY 2018-19. The Administration has prioritized filling these positions. Currently, the six (6) positions added in FY 2018-19 are in recruitment as well as two additional vacancies created through normal attrition. The City has accrued temporary salary savings as these recruitment processes finalize.

ANALYSIS AND POLICY ALTERNATIVES

Given the large number of developments in need of plan review, particularly the hundreds of cannabis operators who are facing upcoming state licensing deadlines, the City of Oakland needs to utilize on-call plan review to ensure these developments can move forward in an acceptable time frame.

Adopting the proposed resolution will enable review of development projects currently in the backlog and allow cannabis operations to achieve local compliance in a timely fashion. This approach provides the City with maximum flexibility as it finalizes the recruitment for new Fire Prevention Bureau positions; the temporary savings created by these vacancies can fund the on-call contracts to ensure that critical plan check review work continues, however, staff will perform those services in house once those positions are filled and staff are trained.

Alternatively, the City could not utilize these on-call contracts. This would only allow for review and inspections of a fraction of the development projects in the current backlog as hiring City plan review staff is anticipated to take several more months. Additionally, newly hired staff will require time to complete training and gain experience before becoming fully-effective. Since the number of projects in need of review will likely continue to grow during this hiring period, it may take multiple years to finally review all developments in the backlog under this approach. Such delays will discourage economic development in Oakland and frustrate the cannabis industry's transition into a regulated market.

FISCAL IMPACT

Existing appropriations included in the 2018-19 Adopted Midcycle budget will support the on-call plan review contracts. On a monthly basis, as salary savings are achieved, OFD will be authorized to increase the volume of contract work performed in an amount equal to those salary savings.

PUBLIC OUTREACH / INTEREST

No public outreach was required for this report outside the standard agenda noticing process.

However, at the July 5, 2018 Cannabis Regulatory Commission meeting, the board passed a recommendation consistent with the proposed resolution of encouraging the City Administration to add OFD and Building Bureau staff and expedite the processing of cannabis permit applications to enable cannabis operators to satisfy upcoming state licensing deadlines.

COORDINATION

The City Administrator's Office, Fire Prevention Bureau, Bureau of Building, and the Budget Bureau coordinated on the preparation of this report and the underlying Resolution. The City Attorney's Office reviewed this report.

SUSTAINABLE OPPORTUNITIES

Economic: Expedited plan review will result in quicker issuance of building permits and cannabis special activity permits that will generate economic opportunities for Oakland residents.

Environmental: This contract will further local business ownership via the cannabis equity permit program, which will reduce commutes and related greenhouse gas emissions.

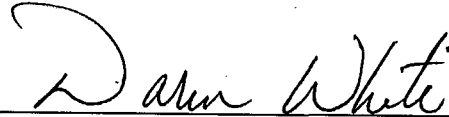
Social Equity: This contract will assist projects occurring throughout Oakland, including cannabis operations under the equity permit program that promotes equitable ownership and employment opportunities in the cannabis industry to decrease disparities in life outcomes for marginalized communities of color and address disproportionate impacts of the war on drugs in those communities.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That the City Council Adopt A Resolution Amending Resolution Number 87041 C.M.S. To Authorize the City Administrator, Or Her Designee, To Reallocate Salary Savings in the City of Oakland's Fire Prevention Bureau During Fiscal Year 2018-2019 To Fund the Existing Professional Service Agreements For On-Call Fire Code Plan Review Services With 4Leaf, Inc., West Coast Code Consultants, CSG Consultants, Inc., and TRB and Associates, Inc.

For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370 or Interim Fire Marshall William Weisgerber, at (510) 238-4051.

Respectfully submitted,



DARIN WHITE
Fire Chief



GREG MINOR
Assistant to the City Administrator

Amelia Roth
Office of the City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2018 NOV 29 PM 1:59

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AMENDING RESOLUTION NUMBER 87041 C.M.S. TO AUTHORIZE THE CITY ADMINISTRATOR, OR DESIGNEE, TO REALLOCATE SALARY SAVINGS IN THE CITY OF OAKLAND'S FIRE PREVENTION BUREAU DURING FISCAL YEAR 2018-2019 TO FUND THE EXISTING PROFESSIONAL SERVICE AGREEMENTS FOR ON-CALL FIRE CODE PLAN REVIEW SERVICES WITH 4LEAF, INC., WEST COAST CODE CONSULTANTS, CSG CONSULTANTS, INC., AND TRB AND ASSOCIATES, INC.

WHEREAS, the City of Oakland has been experiencing a tremendous growth in commercial and residential development; and

WHEREAS, the legalization of the full supply chain of the cannabis industry in 2017 has contributed to this development boom with hundreds of cannabis operators simultaneously applying for cannabis permits, which often require plan review to ensure compliance with applicable fire code laws and regulations; and

WHEREAS, there are approximately 522 commercial and residential developments, including at least 167 commercial properties with cannabis operations, in need of plan review; and

WHEREAS, cannabis operations need to be reviewed and approved Fire Prevention Bureau concerning compliance with the state and local Fire Code and other relevant laws and regulations in the upcoming months to satisfy state statutory deadlines governing the cannabis industry; and

WHEREAS, the City of Oakland Fire Department's Fire Prevention Bureau (Fire Prevention Bureau) experienced substantial cuts to their staff in past years; and

WHEREAS, understaffing in the Fire Prevention Bureau extends the time required for cannabis and non-cannabis operations to obtain approvals from the Oakland Fire Prevention Bureau and other City departments; and

WHEREAS, the Oakland City Council approved the addition of fourteen positions in the Oakland Fire Prevention Bureau during the Fiscal Year 2017-2019 Biennial Budget process, with eight (8) positions in FYI 2017-2018 and an additional six (6) positions in FY 2018-2019; and

WHEREAS, six (6) of these positions are currently in the recruitment process as well as two additional vacancies created through normal attrition; and

WHEREAS, the City has accrued temporary salary savings through these vacancies; and

WHEREAS, to address understaffing in the Bureau of Building and Oakland Fire Prevention Bureau, on February 6, 2018 the Oakland City Council unanimously passed Resolution number 87041 C.M.S. (Resolution 87041), which authorized the City Administrator to execute a Professional Services Agreement for On-Call Plan Check Services for 4Leaf, Inc. and West Coast Code Consultants, Inc., and amend existing Professional Services Agreement Contracts for On-Call Plan Check Services for CSG Consultants, Inc. and TRB + Associates, Inc.; and

WHEREAS, Resolution 87041 set the maximum funding amount for each of the agreements mentioned above at \$1.5 million and the fixed the term for each of the four Agreements at two (2) years with three optional two-year extensions; and

WHEREAS, Resolution 87041 included a finding that the agreements referenced above shall not result in the loss of employment or salary by any person having permanent status in the competitive service; and

WHEREAS, the Oakland Fire Prevention Bureau desires to utilize temporary salary savings towards these existing Agreements for on-call fire code plan review services in order to complete fire plan review in a reasonable timely manner; and

WHEREAS, the City Council finds that funding these Agreements and expediting the plan review of cannabis and non-cannabis operators furthers the City Council's economic development goals; now, therefore be it

RESOLVED, that the City Council hereby amends Resolution 87041 to authorize the City Administrator to reallocate one-time salary savings from vacant Fire Prevention Bureau positions during Fiscal Year 2018-2019 to fund the City's professional service agreements for on-call fire code plan review with 4Leaf, Inc., West Coast Code Consultants, Inc., CSG Consultants, Inc., and TRB + Associates, Inc.; and be it

FURTHER RESOLVED, that the services provided pursuant to the contract authorized hereunder are for a professional, scientific, or technical nature and are temporary in nature and will not result in the loss of employment or loss of salary by any person having permanent employment status in the competitive service; and be it

FURTHER RESOLVED, that the City Administrator is authorized to take any other action necessary consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, WASHINGTON, and
PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____