

## **RESOLUTION 2021-025**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO TO: (1) ACCEPT CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SB 2 PLANNING GRANTS IN THE AMOUNT OF \$160,000 AND LEAP PLANNING GRANTS IN THE AMOUNT OF \$150,000 AND APPROPRIATE THESE FUNDS TO THE GENERAL PLAN /HOUSING ELEMENT UPDATE ALONG WITH PREVIOUSLY APPROPRIATED COMMUNITY DEVELOPMENT PROFESSIONAL SERVICES GENERAL FUNDS; (2) WAIVE THE REQUIREMENT FOR A COMPETITIVE PROPOSAL PROCESS; AND (3) AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH DYETT & BHATIA FOR PLANNING SERVICES RELATED TO THE GENERAL PLAN AND HOUSING ELEMENT UPDATES IN THE AMOUNT OF \$545,948, WITH PAYMENTS AND REIMBURSEMENTS TO EXTEND OVER A THREE-YEAR PROJECT TERM CONCLUDING ON JUNE 30, 2024**

WHEREAS, a General Plan is a state-required long-range policy document that provides guidance to decision makers regarding the allocation of resources, and the future physical form and character of development for cities; and

WHEREAS, the Housing Element is a required element of the General Plan that is required by the State of California to be updated periodically in association with the Regional Housing Needs Assessment process and for which the due date for Bay Area communities is January 2023; and

WHEREAS, the current General Plan for the City of San Pablo was comprehensively updated in 2011 by Dyett & Bhatia and in 2015 an update to the Housing Element was prepared by Baird + Driskell as a separate document; and

WHEREAS, it is desirable and necessary to update the current General Plan including the Housing Element to reflect current conditions as well as the community's vision for development within San Pablo over the next 20 years; and

WHEREAS, funding for a portion of the costs of the General Plan update and Housing Element update have been awarded to the City of San Pablo by the State of California in the form of SB 2 and LEAP reimbursement-based grants totaling \$310,000 and additional funds of at least \$20,000 will become available from the Association of Bay Area Governments in the form of a REAP grant; and

WHEREAS, on November 18, 2019, by Resolution 2019-156, the City of San Pablo approved an application for State of California Department of Housing and Community Development for 2019 Year 1 SB 2 Planning Grants in the amount of \$160,000, and directed staff to return to City Council for appropriation of grant funds; and

WHEREAS, on May 16, 2020, by Resolution 2020-059, the City of San Pablo approved an application to the State of California Department of Housing and Community Development for the 2020 Local Early Action Planning (LEAP) Grants Program in the amount of \$150,000, and directed staff to return to Council for acceptance and appropriation of grant funds; and

WHEREAS, the current FY20-21 budget has allocated a total of \$125,000 in Community Development Professional Services funds for the General Plan Update, and an additional \$105,000 in unspent Professional Services will be allocated to the General Plan Update, for a total of \$230,000; and

WHEREAS, in order to complete the General Plan/Housing Element Update within the City's funding constraints and by the Housing Element submittal deadline of January 2023, the City finds it necessary to waive the requirement for a competitive proposal process for contracts over \$25,000 and to employ the competitive bidding exception for consultants and the sole source exception for competitive proposals (Section 3.16.110 of the San Pablo Municipal Code), and the City Manager recommends entering into an agreement for consulting services with Dyett & Bhatia, as the firm has demonstrated competence in their prior General Plan work for the City, has the professional qualifications necessary for the satisfactory performance of services required, and has submitted a cost proposal lower than informal quotes from similar firms; and

WHEREAS, the purposes of provisions requiring competitive bidding in letting public contracts are to guard against favoritism, improvidence, extravagance, fraud and corruption; to prevent waste of public funds; and to obtain the best economic result for the public; and

WHEREAS, the City Manager recommends that the underlying contract not be subject to the City's requirement for a competitive proposal process for consultants because the nature of the subject matter of the contract is such that competitive proposals would be unavailable or would not produce an advantage, and advertisement for competitive bid would thus be undesirable, impractical, or impossible. As set forth above, competitive bidding requirements provided for by statute may be dispensed with if the public interest is better served by doing so, as where competitive bidding would not produce an advantage. (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631; *Los Angeles Dredging Co. v. Long Beach* (1930) 210 Cal.348.) The exception may be invoked where the product or service contracted for is of unique value and may not be obtained elsewhere (*Hodgeman v. City of San Diego* (1942) 53 Cal.App.2d 610,618). The courts have held that the competitive bidding statutes are not to be applied in a way which denies public agencies the authority to deal with problems 'in a sensible, practical way.' (*Damar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 173); and

WHEREAS, Dyett & Bhatia have submitted a proposed scope of services and cost estimate for the General Plan Update/Housing Element Update in the amount of \$545,948, with services to be provided over a two to three-year time period; and

WHEREAS, staff is recommending City Council authorization for the City Manager to enter into an agreement with Dyett & Bhatia for the amount of \$545,948.

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitations are true and correct and are included herein by reference as findings.

BE IT FURTHER RESOLVED that the City Council of the City of San Pablo hereby accepts SB 2 reimbursement grant funds in the amount of \$160,000 and LEAP reimbursement grant funds in the amount of \$150,000 and authorizes the City Manager to effectuate the following appropriations for the General Plan/Housing Element Update project: (1) appropriate \$160,000 in SB 2 grant funds (320-0905-33403-GPL-SB2) to the General Plan/Housing Element Update capital project (320-0905-43600-GPL-SB2); (2) appropriate \$150,000 in LEAP grant funds (320-0905-33403-GPL-LEA) to the General Plan/Housing Element Update capital project (320-0905-43600-GPL-LEA), and (3) transfer \$236,000 in General Fund Community Development Professional Services funds (212-1755-43600) to the 2023 General Plan Update capital project (320-0905-43600-GPL-421) for a total of \$546,000; and.

BE IT FURTHER RESOLVED that the City Council of the City of San Pablo waives the requirement for a competitive proposal process; and authorizes the City Manager to enter into an agreement with Dyett & Bhatia for professional services related to completion of the General Plan/Housing Element Update as set forth in the attached Agreement for Consulting Services for the amount of \$545,948.

\* \* \* \* \*

ADOPTED this 15<sup>th</sup> day of March, 2021 by the following votes:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

/s/ Dorothy Gantt  
Dorothy Gantt, City Clerk

/s/ Elizabeth Pabon-Alvarado  
Elizabeth Pabon-Alvarado, Mayor