



Office of the City Attorney

Memorandum

TO: Cynthia Bojorquez
Library & Community Services
Director

FROM: Melissa C. Tronquet
Assistant City Attorney

SUBJECT: Neighborhood Grants

DATE: September 19, 2017

Community Services and the City Manager have requested a summary of key legal parameters related to the City's neighborhood grant program. The program is generally discretionary and funds may be awarded consistent with the policies established for this program by the Council. The main legal requirement related to the program is the broad rule that all public funds, however awarded, must be used for a public purpose.¹ In general, a public purpose is defined as an activity or service that is open and accessible to all members of the public regardless of race, creed, gender, sexual orientation, religious affiliation, etc., without restriction, and which does not promote a particular religion. Thus, the key legal consideration is not the nature of the organization applying for or receiving the grant, but whether the organization will use those grant funds for a valid public purpose.

The determination of a public purpose is liberally construed, lies with the Council, and is generally upheld unless it is totally arbitrary. Some factors that may demonstrate the public purpose of a funded program or service include:

- Whether the proposed project/service complements or enhances a service that the City also provides
- When there is an identifiable secondary, or indirect, benefit to the City
- When the organization provides a service the City could provide, but chooses not to

Examples of specific activities that would *not* be appropriate to fund through City neighborhood grants include:

- Political activities (including, but not limited to, lobbying, campaigns, or endorsements) and/or private interests²
- Payment of outstanding debts
- Services which are primarily commercial, religious or political in nature
- Permanent improvements to any non-City owned structure or property
- In most cases, operating expenses such as salaries, utilities, and rent expenses

¹ Cal. Const. art. XVI, § 6

² Cal. Gov't Code § 8314

Finally, it is important to note that concluding that an expenditure may have a public purpose is only the first step of the analysis; just because a grant might be “legal” does not mean that the City must provide money, or that it is the best use of City resources in light of all the City’s competing financial and policy demands. The Council is free to establish policies, parameters and guidelines for neighborhood grants that will help guide decision makers toward prioritizing and balancing the public purpose requirement with the competing financial and policy issues that often arise.