



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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File #: 19-0292, Version: 1

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### **SUBJECT**

Approve the Fifth Amendment to Outside Counsel Agreement with Goldfarb Lipman for Litigation Services Pertaining to the Three Lawsuits Related to the Dissolution of the Redevelopment Agency

### **REPORT IN BRIEF**

Approval is requested for a Fifth Amendment to the Outside Counsel Agreement with the law firm of Goldfarb Lipman for legal services and representation of the City in the matter *Sunnyvale vs. Michael Cohen* (Sac SC #34-2015-80002067) ("Sunnyvale #3"), which concerns a 2012 Re-entered Agreement authorizing the Successor Agency to repay the City approximately \$12.5 million for the 1998 Certificates of Participation issued to refinance the former Redevelopment Agency prior debt for the construction of the downtown parking garage. The estimated costs related to the Fifth Amendment are associated with the briefing and potential oral argument related to the City's and Successor Agency's appeal of the trial court's decision. Consequently, it is necessary to request additional funding in the amount of \$75,000 for these services through the approval of the Fifth Amendment to the Outside Counsel Agreement.

### **BACKGROUND**

Karen Tiedemann, a partner in the law firm Goldfarb Lipman in Oakland, is a lawyer specializing in the areas of real estate transactions, affordable housing, nonprofit organization and environmental law. Ms. Tiedemann and her firm were retained by the City Attorney under Section 908 of the City Charter to represent the City and provide legal services, consultation and advice concerning the above referenced cases in litigation. The Agreement was entered in June 24, 2013, and the First amendment was entered into in March 2016, with a not to exceed amount of \$160,000. The Second amendment was entered in October 31, 2016, with a not to exceed amount of \$200,000. The Third amendment was entered on April 17, 2017, with a not to exceed amount of \$220,000. The Fourth amendment was entered on July 2, 2018, with a current not to exceed amount of \$245,000. The term of the Agreement expires on May 18, 2019.

### **DISCUSSION**

Goldfarb Lipman has represented the City and Successor Agency in many matters concerning the dissolution of the Redevelopment Agency during the past several years. In addition to providing representation in Sunnyvale #3, the firm has provided representation, including appellate review, in Sunnyvale #1 and Sunnyvale #2. The only remaining litigation concerning dissolution is Sunnyvale #3. The estimated costs related to the Fifth Amendment are associated with the briefing and potential oral argument related to the City's and Successor Agency's appeal of the trial court's decision. Consequently, it is necessary to request additional funding in the amount of \$75,000 for these services. through the approval of the Fifth Amendment to the Outside Counsel Agreement, for a new not-to-exceed amount of \$320,000.

In addition, the term of the Agreement is set to expire on May 19, 2019, it is necessary to extend the term and staff recommends that the term be extended for an additional three years or until May 19,

2022.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” with the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378 (b) (4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

### **FISCAL IMPACT**

Funding for RDA Counsel Fees for litigation services has been appropriated in the FY 2018/19 Redevelopment and Successor Agency Fund and was previously approved by the Local Oversight Board of the Successor Agency. Funding for litigation services in FY 2019/20 has been approved by the Countywide Oversight Board of the Successor Agency and will be included in the FY 2019/20 Redevelopment and Successor Agency Fund.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **RECOMMENDATION**

City Council:

Authorize the City Attorney to execute a Fifth Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Goldfarb Lipman to increase the not-to-exceed amount by \$75,000, for a new not-to-exceed contract amount of \$320,000.

Redevelopment Successor Agency:

Authorize the Agency Counsel to execute a Fifth Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Goldfarb Lipman to increase the not-to-exceed amount by \$75,000, for a new not-to-exceed contract amount of \$320,000.

Prepared by: Nichole Anglin, Paralegal

Reviewed and Approved by: John A. Nagel, City Attorney and Agency Counsel

### **ATTACHMENT**

1. Draft Fifth Amendment to Outside Counsel Agreement