



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 15, 2025
TO: LaTanya Bellow, City Manager
FROM: Chadrick Smalley, Community Development Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Contract With Economic And Planning Systems, Inc. For Preparation Of An Inclusionary Housing Policy Study And A Development Impact Fee Update Study For A Total Contract Amount Not To Exceed \$433,409**

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution authorizing the City Manager to execute a Professional Services Contract with Economic and Planning Systems, Inc. for preparation of an Inclusionary Housing Policy Study and Development Impact Fee Update Study in an amount not to exceed \$433,409.

BACKGROUND

The City originally adopted its Affordable Housing Set-Aside (AHSA) Ordinance in 1990 to address a shortage of affordable housing available to moderate, low, and very low-income households. In 2014, the AHSA ordinance was revised and renamed the Affordable Housing Program (AHP).

The AHP Ordinance covers both for-sale and rental housing projects. It requires a set-aside of Below Market Rate (BMR) units in new ownership housing developments of 10 or more units and an impact fee on all new rental housing projects or in-lieu BMR unit production. In addition, the Planning Regulations include a "Development Bonus Program" which increases allowable height, Floor Area Ratio (FAR) and/or density in exchange for affordable housing units and community benefits. The program was in part designed to counter the "Palmer Decision" (Palmer/Sixth Street Properties, L.P. v. City of Los Angeles, 2009) that prevented cities from mandating affordable housing in new *rental* projects. The Development Bonus Program relies on the City's entitlement process to authorize projects seeking a bonus for height, FAR or density through approval of a conditional use permit by the Planning Commission or the Planned Unit Development process by the Planning Commission and City Council.

In July 2014, the City also adopted ordinances to establish two new development impact fees: the Parks and Recreation Impact Fee and the Affordable Housing Impact Fee, via Ordinance Nos. 14-008 and 14-009, respectively; and updated the Transportation Impact Fee through Ordinance No.14-008, which had been established in September 1990 (in Ordinance No. 90-008).

Assembly Bill 1505 (AB1505) passed in 2017 in response to the Palmer Decision and restored local governments' ability to require developers to include affordable rental units

in their projects. The City is now allowed to revise the AHP by adopting inclusionary housing requirements for rental developments under the authority granted by AB 1505, also known as the “Palmer Fix”. In addition, the new inclusionary policy implements the City’s adopted 2023-2031 Housing Element Program A- Affordable Housing Program, which calls for the City to “Incorporate an inclusionary housing requirement into the Affordable Housing Program by amending Section 9-5.406 and 9-5.407 to eliminate the reference to the impact fees so that all residential rental projects must include a percentage of affordable units, as authorized under Assembly Bill 1505”.

The City also needs to update its Development Impact Fee Ordinance as is required by the Mitigation Fee Act, which requires nexus studies supporting impact fees to be done every 8 years. Nexus studies are required to justify the fees, demonstrating the link between the development and the need for public facilities. These studies must identify existing levels of service, potential impacts, and how the fees will address those impacts. The City’s Development Impact Fee Ordinance was adopted in 2014, more than eight years ago, and thus the nexus studies need to be updated to provide legal support for the fees.

DISCUSSION

Simultaneous preparation of an inclusionary housing policy and update of Development Impact Fees would allow for a holistic evaluation of the City’s major exactions from new development projects. This work will support City evaluation of trade-offs across various policies and programs to seek desired outcomes, while considering the effect that the policies and programs will have on the financial viability of new development projects.

In March 2024, the City circulated a Request for Qualifications (RFQ) to create a list of pre-qualified vendors for consulting services in various disciplines, including services related to Development Impact Fees. Economics and Planning Systems, Inc. (EPS) was the top scoring firm selected for the pre-qualified list. Because of EPS status as the top-ranked firm, and in light of EPS’ demonstrated experience with development economics, staff invited EPS to prepare a proposal for completing an inclusionary housing policy study and a development impact fee nexus study.

EPS’ proposal to complete these studies includes a survey of the policy landscape, review of the City’s capital project needs, and preparation of nexus analyses. EPS will also test financial feasibility of proposed fees and inclusionary housing requirements, participate in outreach, and provide policy recommendations. The cost to complete this work is \$433,409, inclusive of a \$20,639 project contingency for unforeseen needs. The work is expected to take approximately 18 months from project initiation to final draft code language. The proposed Professional Services Contract with EPS is attached to this staff report as Exhibit A to the Draft Resolution.

FISCAL IMPACT

As noted above, the total proposed contract amount is \$433,409. The Metropolitan Transportation Commission has awarded \$250,000 to the City through its Transit Oriented Communities Planning Grant program. On June 17, 2025, the City Council authorized the City Manager to accept these funds for the purposes of developing an inclusionary housing policy and modifying the Residential Landlord and Tenant Relations Ordinance. Of the \$250,000 grant amount, \$200,000 is expected to support the proposed contract with EPS and is included in the Fiscal Year 2025-2026 Operating Budget for the Grant Fund (Fund 254) Professional Services (Account 80050). The balance of the proposed contract (\$233,409) is proposed to be funded principally by the General Plan Maintenance Fund (Fund 225) budget for Professional Services (Account 80050) which includes \$100,000 for each Fiscal Year 2025-2026 and 2026-2027, for a total of \$200,000, and the Affordable Housing Fund (Fund 299) budget for Professional Services (Account 80050) for the remaining \$33,409. The table below illustrates the proposed funding by account and Fiscal Year:

Fund/Account	FY26	FY27
Grant Fund 254-80050 (TOC Grant)	200,000	
General Plan Maintenance Fund 225-80050	100,000	100,000
Affordable Housing Fund 299-80050	2,068	31,341
<i>Total by Fiscal Year</i>	<i>\$302,068</i>	<i>\$131,341</i>
<i>Total</i>	<i>\$433,409</i>	

STAFF COMMUNICATION WITH THE PUBLIC

None

CONFLICT OF INTEREST

None.

CONCLUSION

Staff recommends that the City Council adopt the attached resolution authorizing the City Manager to execute a Professional Services Contract with EPS for preparation of Inclusionary Housing and Development Impact Fee update studies in an amount not to exceed \$433,409.

PREPARED BY: Miroo Desai, Planning Manager

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**

A handwritten signature in blue ink, appearing to read "LaTanya Bellow", is written over a horizontal line.

LaTanya Bellow, City Manager

ATTACHMENTS

- Draft Resolution, including Exhibit A: Professional Services Contract with EPS