

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: September 16, 2016

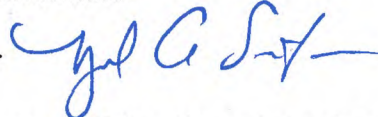
CAO File No. 0220-05268-0000

Council File No. 12-0014-S23

Council District: All

To: Eric Garcetti, Mayor
Herb J. Wesson, Council President
Paul Krekorian, Chair, Budget and Finance Committee

From: Miguel A. Santana, City Administrative Officer



Reference: *Independent Living Center of Southern California v. City of Los Angeles, et al.*

Subject: **Payment of Negotiated Damages and Court Costs in the Matter of
*Independent Living Center of Southern California v. City of Los Angeles, et al.***

SUMMARY

On August 30, 2016 the City Council approved a settlement agreement in the case entitled *Independent Living Center of Southern California v. City of Los Angeles, et al.* (CF 12-0014-S23). The settlement agreement was subsequently approved by the Mayor on September 5, 2016. This case was brought by three fair housing advocacy organizations against the City, the Community Redevelopment Agency of Los Angeles (CRA/LA) (a Designated Local Authority and Successor for the former Community Redevelopment Agency of the City of Los Angeles), and 34 owners of affordable housing projects. The plaintiffs alleged that the defendants failed to ensure that the affordable housing projects met the accessibility requirements under federal and state civil rights laws.

Pursuant to the terms of this agreement, the City is now required to pay the plaintiffs \$4.5 million for negotiated damages and up to \$1 million to the plaintiffs' counsel, Relman, Dane & Colfax, PLLC upon submission of documentation for costs incurred by counsel in this litigation. This amount is separate from attorneys' fees that have yet to be determined. To satisfy the terms of the agreement, the City must process immediate payments of up to \$5.5 million which requires a transfer of funds into the Liability Claims Fund before the 2016-17 First Financial Status Report is ready for consideration.

Funding is needed to make up to \$5.5 million in payments as per the timeline set forth in the settlement agreement. Since the settlement agreement was recently approved, and funds were not provided for this purpose in the 2016-17 Budget due to ongoing negotiations, a \$5.5 million Reserve Fund loan is recommended to the Liability Claims Fund. It is also recommended that the City Attorney be authorized to process these payments. The payment of the attorneys' fees will be processed once the Court has determined the actual amount due. A Reserve Fund loan will likely be recommended for this payment as well, and will be requested once the amount is known.

The attached Resolution has also been prepared in the event that the City funds a portion of the *Independent Living Center of Southern California, et al. vs. City of Los Angeles, et al.* settlement (i.e., refund the Reserve Fund loan) with Judgment Obligation Bonds (the "Bonds"). If the City elects to issue Bonds in the future, the Resolution will allow the City to reimburse and/or refund the City's General Fund expenditures or other City fund expenditures incurred in connection with the settlement, in an amount not-to-exceed the \$5.5 million plus the Court determined attorneys' fees, from Bond proceeds. Any issuance of Bonds would require future Council approval and would likely be subject to a validity determination by the superior court. This Office will report on potential financing strategies to pay for this settlement at a later date.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Authorize a loan of up to \$5,500,000 from the Reserve Fund to the Liability Claims Fund No. 100/59, in c
2. onnection with a portion of the settlement of *Independent Living Center of Southern California, et al. vs. City of Los Angeles, et al.*, to be repaid from proceeds of bonds which may be issued in the future;
3. Transfer up to \$5,500,000 from the Reserve Fund to the Unappropriated Balance and appropriate therefrom to the following Funds and Accounts in connection to a settlement agreement in the matter of *Independent Living Center of Southern California, et al. vs. City of Los Angeles, et al.* Case No. CV12-0551 and pursuant to Council File No. 12-0014-S23:

<u>Fund</u>	<u>Account No.</u>	<u>Account Name</u>	<u>Amount</u>
100/59	009798	Miscellaneous Liability Payouts	\$5,500,000

4. Authorize the City Attorney to process a payment in the amount of \$4,500,000 via wire transfer to Relman, Dane & Colfax, PLLC, 1225 19th Street N.W., Suite 600, Washington, D.C. 20036-2456 for distribution to Plaintiffs for negotiated damages in the matter of *Independent Living Center of Southern California, et al. vs. City of Los Angeles, et al.* from the Liability Claims Fund No. 100/59, Account 009798, Miscellaneous, in compliance with Council File No. 12-0014-S23;
5. Authorize the City Attorney to process a payment up to \$1,000,000 via wire transfer to Relman, Dane & Colfax, PLLC, 1225 19th Street N.W., Suite 600, Washington, D.C. 20036-2456 for costs incurred by the plaintiffs' counsel in the matter of *Independent Living Center of Southern California, et al. vs. City of Los Angeles, et al.* from the Liability Claims Fund No. 100/59, Account 009798, Miscellaneous, in compliance with Council File No. 12-0014-S23;
6. Adopt the attached Resolution declaring the intention to reimburse and/or refund the City's General Fund expenditures or other City fund expenditures to be incurred in connection with a portion of the settlement of *Independent Living Center of Southern California, et al. vs. City of Los Angeles, et al.* inclusive of attorneys' fees, in a maximum amount not-to-

exceed \$25,500,000, from proceeds of bonds which may be issued in the future for such purposes; and,

7. Authorize the City Attorney, or designee, to make necessary technical corrections as necessary to the above transactions, subject to the approval of the City Administrative Officer, to implement Mayor and Council intentions.

FISCAL IMPACT

Approval of these recommendations will reduce the Reserve Fund by \$5.5 million. However, depending on future financing options approved, there is potential that the Reserve Fund can be restored at a later date upon reimbursement of these funds.

Attachment

MAS:BC:JW:MDG:DMP:01170018c

RESOLUTION

Resolution of the Council of the City of Los Angeles (the "City") authorizing one or more advances or interfund borrowings from the City's General Fund or other City funds to pay certain settlement obligations (the "Obligations") relating to *Independent Living Center of Southern California, et al. v. City of Los Angeles, et al.* (Case No.: 12-CV-00551 FMO (PJWx)), and declaring the City's intention to reimburse itself for such advances and/or refund such borrowings from the proceeds of judgment obligation bonds.

WHEREAS, the City is a municipal corporation organized and existing under its charter and the laws of the State of California;

WHEREAS, the Council has approved a settlement agreement for the matter described above;

WHEREAS, such settlement resulted from a mediation process and, based on facts presented by the City Attorney and recommendations by the City Administrative Officer and the Chief Legislative Analyst, the Council finds that the litigation and mediation process resulted in a settlement that is in the best interests of the City;

WHEREAS, the City is obligated, or in the future may be obligated, to pay the Obligations to certain persons pursuant to the terms of the settlement;

WHEREAS, the City plans to initially pay the Obligations, on an interim basis, with one or more advances or interfund borrowings from the City's General Fund or other City funds;

WHEREAS, the City intends to reimburse itself for such advances and/or refund such borrowings from the proceeds of judgment obligation bonds (the "Bonds"), which Bonds would be issued pursuant to the provisions of the City Charter and Section 11.27 *et seq.* of the City Administrative Code concerning the issuance of bonds to pay or provide for the payment of judgment or settlement obligations, as the same may be amended from time to time;

WHEREAS, the City expects to issue such Bonds on a tax-exempt basis; and

WHEREAS, each advance or interfund borrowing used to make an Obligation payment will constitute an indebtedness owed to the General Fund or other City fund, as applicable, which the City intends to refinance with the proceeds of the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOS ANGELES AS FOLLOWS:

Section 1. The recitals herein and the findings made by the Council herein are true and correct.

Sec. 2. The City hereby declares its intention to reimburse and/or refund the City's General Fund or other City funds for any Obligation payments, and reasonably expects to do so by issuing the Bonds, in a maximum principal amount not to exceed \$25,500,000, within 18 months after making such Obligation payments.

Sec. 3. The Obligation payments constitute extraordinary nonrecurring items that are not customarily payable from current revenues, and neither the City nor any of the City's divisions, departments, agencies or affiliated entities has maintained a reserve or has otherwise set aside amounts to pay any portion of the Obligation payments to be reimbursed and/or refunded with proceeds of the Bonds.

Sec. 4. This Resolution shall take effect immediately upon its passage.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on _____.

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy