



**Date:** January 23, 2020

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Reginald J. Johnson, Director, Department of Community Development  
**Subject:** Grant Contract between Legal Aid of North Carolina (LANC) and the City of Durham in the Amount of \$500,000 in Dedicated Housing Funds to Provide Legal Representation to City of Durham Residents Facing Eviction

### **Executive Summary**

In the FY 2018-19 budget, the City Council authorized funding to Legal Aid of North Carolina (LANC) in the amount of \$200,000 for an eviction diversion pilot program to provide legal representation to qualified low-income Durham residents currently facing eviction. Under the terms of the contract, Legal Aid committed to serving 420 clients, with the goal of preserving tenancy for at least 50% of those clients and enabling another 20% to move out without an eviction judgement. Through the end of November, LANC has opened 583 eviction diversion cases, and closed 439 cases. Of the cases closed, almost 70% (309), resulted in tenancy being preserved. Overall, 79% of clients served did not receive an eviction judgement, although some of these clients may have moved out as a result of a negotiated agreement.

At the direction of City Council, the Community Development Department increased funding for the second year of the eviction diversion program to \$500,000, to provide additional legal representation for twice as many projected qualified low-income Durham residents facing eviction.

The new contract for calendar year 2020 will enable LANC to engage four attorneys, a paralegal and an outreach coordinator to engage in legal representation. With this funding, LANC will be able to serve over 840 clients facing eviction, with the goal of preserving tenancy for at least 60% of the households served. In addition, LANC will work with representatives of Community Development Department and the Durham Homelessness Continuum of Care to identify and support high-risk tenants with a history of homelessness.

### **Recommendation**

The Community Development Department recommends that the City Council authorize the City Manager to execute a contract with Legal Aid of North Carolina in the amount of \$500,000 in FY 19-20 Dedicated Housing Funds to provide legal representation to City of Durham residents who are facing eviction; and to receive a presentation from Community Development staff concerning the results of the first year of the Eviction Diversion program.

### **Background**

Legal Aid of North Carolina (LANC) is a statewide, nonprofit law firm that provides free legal services in civil matters to low-income people in order to ensure equal access to justice and to remove legal barriers to economic opportunity. LANC, in partnership with the Duke Civil Justice Clinic, launched an Eviction Diversion Program to provide legal assistance to low income households facing eviction in Durham. The goal of the Eviction Diversion Program is to help clients avoid eviction judgments, which could prevent them from finding adequate, habitable, and

affordable housing elsewhere, and when possible, to enable clients to remain in their current homes.

During FY19-20, the City committed to providing \$200,000 to LANC to fund eviction diversion, through a contract that began on January 1, 2019 and ended on December 31, 2019. Under the terms of this contract, Legal Aid committed to serving 420 clients, with the goal of preserving tenancy for at least 50% of those clients and enabling another 20% to move out without an eviction judgement. Through the end of November 2019, LANC has opened 583 eviction diversion cases and closed 439 cases. Of the cases closed, almost 70% (309) resulted in tenancy being preserved. Overall, 79% of clients served did not receive an eviction judgement, although some of these clients may have moved out as a result of a negotiated agreement.

To date, the most common solutions that have been negotiated with landlords are “pay and stay” arrangements and “move-out” agreements. In a pay and stay arrangement, the landlord agrees to a continuance of the case pending dismissal and the tenant agrees to pay a negotiated amount of back rent, usually less than the landlords’ original demand, by a certain date. In a move-out agreement, the tenant agrees to voluntarily move by a certain date and the landlord will then dismiss the case against the tenant. Even though a move-out agreement does not preserve the tenancy, it allows the tenant to avoid an eviction judgment.

During the FY19-20 departmental budget presentations, the City Council requested an increase in funding for eviction diversion from \$200,000 to \$500,000 per year, with the goal of doubling the number of households being served. LANC has agreed to match the City funds with \$140,000 in additional resources to be used for the Eviction Diversion program. Both the City and private funds will be used to cover the cost of six attorney positions, two paralegals, a community outreach coordinator, and office space. With this funding, LANC will be able to serve over 840 clients facing eviction, with the goal of preserving tenancy for at least 60% of the households served and enabling others to negotiate a move-out date with no eviction judgment.

In addition, LANC will work with representatives of Community Development Department and the Durham Homelessness Continuum of Care (CoC) to identify and support tenants with a history of homelessness. This will include identifying clients with a history of homelessness up front, engaging CoC service providers as appropriate, and participating in CoC-led discussions to proactively address the challenges of at risk tenants before an eviction filing occurs.

### **Issues and Analysis**

Use of LANC to provide legal representation for City of Durham residents who are facing the prospect of being evicted from their homes will assist the City in meeting its neighborhood stabilization goals. Specifically, LANC will use City and matching funds to provide legal representation for qualified City of Durham residents facing eviction. The funds will also be used for outreach on eviction diversion, with the goal of increasing the number and sources of referrals and engaging clients who are earlier in the eviction process. To be eligible for LANC assistance in general, applicants must have a household income below 125% of the federal poverty threshold, or household income below 187.5% of the federal poverty threshold and meet a specific asset test.

The proposed contract, at Section 5, includes a rollover provision that authorizes the City Manager to execute necessary contract amendments to rollover unexpended Project Funds. Because the invoices for the services are sent to the City after the work has been performed, unexpended Project Funds are often apparent only after the term of a contract. In order to facilitate seamless services without delay, this provision allows the City to rollover unexpended Project Funds so long

as the services being provided (1) are being provided by the Contractor—LANC, in this case—and (2) are the same services provided under this proposed contract.

**Alternatives**

The City Council could elect not to continue LANC’s contract and increase the requested funding for the LANC Eviction Diversion Program. If the program does not receive City funding, the program will not be able to continue to operate.

**Financial Impact**

Dedicated Housing funds in the amount of \$500,000 are budgeted and available for this project and the MUNIS codes are 1940D014-728600-DFSA2.

**Equal Business Opportunity Summary**

This is a grant and was not reviewed by the Equity & Inclusion Department for compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting.