

TO: James L. App, City Manager
FROM: Ron Whisenand, Community Development Director
SUBJECT: Development Impact Fee Update
DATE: April 3, 2007

Needs: For the City Council to consider authorizing a supplement to the contract with David Taussig & Associates for additional work related to the update of the City's Development Impact Fees.

- Facts:**
1. David Taussig & Associates entered into a contract with the City in February, 2004, to prepare a Development Impact Fee Justification Study for the purposes of updating the Development Impact Fees. The amount of the contract was \$38,000.
 2. On September, 6, 2005, the City Council approved an extension to the Taussig contract in the amount of \$47,500.
 3. In June of 2006, Taussig completed the revised Justification Study.
 4. In June of 2006, the Home Builders Association (HBA) retained an attorney and a financial consultant to provide comments on the City's proposed AB 1600 fee program.
 5. At their meeting of August 1, 2006, the Council considered adoption of the AB 1600 fees and the Justification Study prepared by Taussig. The Council continued discussion of the matter to their meeting October 3, 2006.
 6. From June until October, 2006, Taussig attended meetings, prepared response documents for HBA review and revised the Justification Study to satisfy certain HBA concerns.
 7. In a letter dated February 13, 2007, Taussig requested an additional \$24,000 to cover the expenses of consultation during the period of July to October of 2006.
 8. On March 19, 2007, the AB 1600 Fee Council Adhoc Committee of Councilmen Nemeth and Strong reviewed the request to supplement the contract and agreed that the added work performed was beyond the scope of the original contract and should be paid.

**Analysis
and
Conclusion**

Fiscal neutrality is an adopted policy in the new General Plan. One of the tools to achieve this neutrality is to update the City's Development Impact Fees on a regular basis. During the course of preparation to update the AB 1600 fees, the City went to extensive measures to notify, listen and respond to concerns expressed by the Home Builders Association. The fee update was successfully passed by the Council in a unanimous decision on October 3, 2006.

The HBA's decision to retain an attorney and a financial consultant resulted in significant time and effort, on the part of City staff and Taussig and Associates, to attend meetings and to form responses. Taussig submitted invoices for services from August through October of 2006 that amounted to fees \$27,081 over the Council approved extension to his contract. In his letter dated February 13, 2007, Taussig explains that some of this work may have duplicated efforts performed by a previous staff member.

In accordance with our discussion of these issues, Taussig has reduced his request to \$24,000. A small portion of this work, \$1,178, was completed in July, so even with the reduced request; Taussig was a bit over contract prior to the Council decision to extend the discussion of AB 1600 fees until October. Given the circumstances associated with the City's decision to accommodate the HBA to the extent possible, Taussig's request for additional payment of \$24,000 appears justified.

Policy

Reference: Fiscal neutrality is a policy component of the new General Plan.

Fiscal

Impact: The supplemental costs (\$24,000) of the fee update can be paid from the General Contingency Fund. The fee update is needed to help ensure no adverse long-term impact on the City as a result of new development.

Options:

- a. Authorize the City Manager to approve a contract supplement with David Taussig & Associates in the amount of \$24,000 to attend meetings and prepare responses to HBA comments during the course of updating the Development Impact Fees and adopt Resolution No. 07-xx appropriating funds.
- b. That the City Council amend, modify or reject the above option.

Attachments: (2)

1. Taussig Letter Dated 2-13-07
2. Resolution

Date: February 13, 2007

To: John Falkenstien

From: David Taussig

Subject: Request for Second Augmentation to Budget for February 24, 2004 Agreement to Prepare Development Impact Fee Justification Study

The intent of this memo is to respectfully request a second augmentation to the budget for the preparation of a City of Paso Robles Development Impact Fee (“DIF”) Justification Study (the “Study”). David Taussig and Associates, Inc. (“DTA”) entered into an original agreement with the City of Paso Robles to prepare a Development Impact Fee (“DIF”) Study on February 24, 2004 (see Attachment 1). The agreement called for a budget of \$34,600, plus out-of-pocket expenses of up to \$3,000.

After DTA completed the work called for in the original Scope of Work, City staff and other stakeholders decided that revisions needed to be made to the Needs List of improvements, as well as the levels of service to be funded with the DIFs and the cost estimates for these levels of service. City staff also requested that DTA attend and make presentations at additional meetings at the City, and that the DIFs be recalculated and a new text encompassing all of the changes be prepared for a revised Study. An Augmented Scope of Work and Budget for an additional \$45,000 plus up to \$2,500 in out-of-pocket expenses was approved by the City Council on September 6, 2005 (see Attachment 2) so that DTA could complete this work.

By June 2006, DTA had prepared a final draft Study that included all of the augmented work and was ready for approval by the City Council. However, in June, the local branch of the Home Builders Association (“HBA”) hired its own financial consultant and an attorney to review the final draft of the DIF Study. These HBA-sponsored parties prepared two lengthy critiques of the revised DIF Study in which they challenged the inclusion of some of the City-recommended improvements in the Needs List, as well as the improvement costs and the relationship between these improvements and the DIF that was to be applied to new development. DTA found it necessary to respond to the critiques with a lengthy written defense, meet with the HBA representatives and then make further revisions to the tables and text of the DIF Study in those cases in which the HBA’s arguments were supportable, so that we could show the HBA that we were willing to make compromises in some cases. DTA also made additional changes to the tables and text in cases where the City agreed to change their position on particular improvements or their costs. This additional work, which was completed between July and October, 2006 required DTA to put approximately \$27,000 of additional time into this engagement than was covered by the original budget and the augmented budget, as

Mr. John Falkenstien

November 17, 2006

Page 2

reflected in the final invoices that are attached herewith as Attachment 3. But for the interactions with HBA, the \$16,000 in budget remaining as of July 1, 2006 would have been sufficient to allow DTA to make minor modifications to the text and present the Study for final approval to the City Council without requesting any additional funding augmentation. DTA did forward invoices to the City detailing the additional time as the work was being performed, so City staff was aware that DTA was going over budget.

However, as time was of the essence in completing this Study and inaugurating the higher DIF levels required of new development to cover its fair share of facilities costs, there was not time for the City Council to approve a second augmented budget. In deference to the fact that DTA may have performed a minor amount of duplicative work when one of our staff persons left our firm in May 2006, we are willing to reduce our request by \$3,000. As such, DTA is requesting the approval of an additional \$24,000 in budget to cover the cost of the additional work. Your cooperation in obtaining the City Council's approval of this second augmented budget is appreciated.

J:\PROPOSAL\AB1600\Paso Robles\2ndAugmentation.doc

RESOLUTION NO. 07-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROPRIATING FUNDS TO PAY FOR CONTRACT SERVICES
RELATED TO DEVELOPMENT IMPACT FEE UPDATE

WHEREAS, the City Council had authorized a contract with David Taussig & Associates to assist the City with a Development Impact Fee Justification Study; and

WHEREAS, the time and materials expended working on the City's Development Impact Fee Justification Study exceeded the allocated budget because of factors beyond the control of David Taussig & Associates.

WHEREAS, the additional expenses total \$24,000 beyond the allocated budget.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Paso de Robles that a one time appropriation in the amount of \$24,000 from the General Contingency Fund Budget Account No. 100-910-5224-596 is hereby approved.

ADOPTED by the City Council of the City of El Paso de Robles at a regular meeting of said Council held on the 3rd day of April 2007 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk