



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: June 6, 2007

Approved

Kay Winter

Date

6/10/07

COUNCIL DISTRICT: 2
SNI AREA: None

SUBJECT: THIRD AMENDMENT TO THE AMENDED AND RESTATED FUNDING AND REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF SAN JOSE AND COYOTE HOUSING GROUP LLC REGARDING THE COYOTE VALLEY SPECIFIC PLAN AND RELATED ENVIRONMENTAL DOCUMENTS AND REGULATORY PERMITS AND ADOPTION OF 2007-2008 APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE GENERAL FUND.

RECOMMENDATION

It is recommended that the City Council take the following actions to continue funding for the preparation of the Coyote Valley Specific Plan, and its related environmental documents and regulatory permits:

- a. Approve the Third Amendment to the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing Group, LLC for the work associated with the preparation of the Coyote Valley Specific Plan, related environmental documents, and regulatory permits to extend the term from June 30, 2007 to December 31, 2007 including a provision for the Director of the Planning, Building and Code Enforcement to extend the terms in writing by one additional six (6) month increment; and increase the amount of funding to cover staff and consultant costs through December 31, 2007 by approximately \$1.25 million for a total of \$17.20 million.
- b. Approve minor amendments to the agreements between the City and Dahlin Group, KenKay Associates, Economic and Planning Systems, Apex Strategies, David J. Powers and Associates, Wetland Research Associates, Schaaf and Wheeler, Hexagon Transportation Consultants, ENGE0, Basin Research Associates and Lowney Associates to extend the term

of each of the agreements from June 30, 2007 to December 31, 2007 including a provision for the Director to extend the terms in writing by one additional six (6) month increment.

- c. Adoption of a resolution authorizing the Director of Planning, Building and Code Enforcement to negotiate and execute a Consultant Agreement between the City and HMM Engineers for \$50,000 for consultant services for the CVSP for the term of December 31, 2007, including a provision for the Director of Planning, Building and Code Enforcement to extend the term in writing by one additional six (6) month increment.
- d. Adopt a resolution authorizing the Director of Planning, Building and Code enforcement to send out a Request for Qualifications for the development of form-based zoning to implement the CVSP for an amount not to exceed \$83,600.
- e. Adoption of a resolution authorizing the City Attorney to negotiate and execute a Consultant Agreement between the City and Cox, Castle and Nicholson for consultant services on the Coyote Valley Specific Plan for \$270,000 for the term of January 1, 2007 through December 31, 2007, including a provision for the City Attorney to extend the term in writing by one additional six (6) month increment
- f. Adopt the following amendments to the 2007-2008 annual Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund as follows:
 1. Increase the City-Wide appropriation for the Coyote Valley Specific Plan by \$1,250,000; and
 2. Increase earned revenue from Other Revenue by \$1,250,000.

OUTCOME

The desired outcomes associated with the actions listed above are the provision of additional resources for staff and consultants to continue work on the preparation of the Coyote Valley Specific Plan and related documents, including the Draft Environmental Impact Report (DEIR). Approval of the recommendation would provide additional funding from the Coyote Housing Group to continue the project through December 31, 2007, the anticipated completion date. The consideration of this amendment and associated actions gives the Council an opportunity to take the necessary action to provide the required funding to continue the specific plan process.

EXECUTIVE SUMMARY

Staff recommends the approval of the recommended third amendment to the CVSP funding agreement (i.e., Amended and Restated Funding and Reimbursement Agreement) in order for staff and consultants to continue work on the CVSP documents including the specific plan itself and its EIR. This amendment would enable the Coyote Housing Group to provide funds

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sufficient to cover the plan preparation costs from July 1, 2007 to December 31, 2007, which is the target time for completing the specific plan process.

The new appropriation of approximately \$1.25 million that is being requested with this amendment would ensure the availability of funds to continue the planning effort.

BACKGROUND

In August 2002, the Mayor and City Council initiated the preparation of a specific plan for Coyote Valley, an area consisting of 7,000 acres of mostly undeveloped land in the southern reaches of the City of San Jose just north of the City of Morgan Hill. It is presently divided into three sub-areas according to the San Jose 2020 General Plan: the North Coyote Valley Campus Industrial area, the mid-Coyote Urban Reserve, and the Coyote Greenbelt to the south.

With the initiation, the City Council adopted 16 vision and outcomes statements for Coyote Valley consistent with the San Jose 2020 General Plan (http://www.sanjoseca.gov/coyotevalley/docs/Council%20Vision%20and%20Expected%20Outcomes_4-29-2005_revised.pdf). Pursuant to this Council's Vision, the Coyote Valley Specific Plan will identify the location and intensity of land uses, plan for infrastructure and community service needs, formulate financing and implementation programs, and determine the phasing of the plan elements, as necessary.

In February 2003, the City Council approved the Mayor's Budget Strategy memorandum, setting forth specific guidance to control costs. With respect to long-range land use planning, the direction was "to defer or suspend advance land use planning efforts without outside funding." Per this Council direction, Planning staff and the City Attorney's Office negotiated a funding agreement with self-selected Coyote Valley property owners who volunteered to finance the preparation of the Coyote Valley Specific Plan and its related environmental documents and regulatory permits. This voluntary property owner group is called the Coyote Housing Group, LLC. The City Council approved the original funding agreement on June 24, 2003, an Amended and Restated agreement on June 7, 2005, the First Amendment to the Amended and Restated agreement on June 27, 2006 and the Second Amendment to the Amended and Restated agreement on August 29, 2006.

ANALYSIS

Planning staff have assessed the scope of services and associated costs for the consultants to continue work on the CVSP and related environmental studies, and determined that an extension is necessary for several reasons. The Draft EIR circulation period ends June 29, 2007, and staff will need to respond to all comments utilizing the services of consultants. The contracts with these consultants will expire June 30, 2007. To respond promptly and thoroughly to comments, the Funding Agreement extension, associated consultant funding, and contract extensions are required.

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In addition, based on the findings of the EIR, staff is working with the consultants, Task Force, and community to refine the Coyote Valley Specific Plan to further reduce and avoid environmental impacts. Staff anticipates that the majority of the Task Force work and CVSP process could conclude by December 31, 2007, assuming that there is not a need to re-circulate the CVSP EIR.

The First Amendment was approved in June 2006 with a limited scope to provide a only a portion of the plan preparation costs regarding staff and related non-personal expenses through August 2006. The Second Amendment provided additional funds for staff and some consultants through June 2007. The Third Amendment will provide additional funds for staff and some consultants through December 2007. Other CVSP consultants have sufficient resources in their budgets to complete their services, but still require contract extensions.

Since the First and Second Amendments, staff has worked with CHG on the additional costs required to complete the project. The appropriation adjustment recommended in this memorandum will cover 6 months (including a provision for the Director of Planning, Building and Code Enforcement to extend the term by one additional six (6) month increment) of staff costs and limited augmentations to certain consultants, totaling \$1.25 million. The amendment also establishes a schedule of payments by CHG to the City for the full payment of \$1,250,000.

The extra consultant costs mostly results from the services that are required to complete the specific plan, the EIR and related documents due to the extraordinary complexity and the need for updated infrastructure costs and plan refinements. Additional funding may be required in the future related to the completion of the CVSP and the forthcoming EIR comments. In terms of staff, a majority of the costs are in the Department of Planning, Building and Code Enforcement because Planning staff is managing and leading this effort. Additional funding is provided to cover the necessary staff costs from the Departments of Public Works and Transportation, who continue to be intimately involved throughout the planning process. In addition, participation from other City Departments is expected to continue, and funds are identified to pay for their costs as well. The additional \$1.25 million requested includes \$1,000,000 for staff work, \$200,000 for legal services and \$50,000 for engineering services.

The consultant agreement between the City and Crawford and Multari and Clark Associates for zoning services has been terminated due to unforeseen health circumstances of a key staff member, and authorization is being requested for the Director of Planning to send out a Request for Qualifications for form-based zoning services for an amount not to exceed \$83,600. Given the City's procurement process, the completion of the zoning work would likely follow the completion and Council consideration of the CVSP, expected in December 2007.

POLICY ALTERNATIVES

If the City Council wishes to continue with the Coyote Valley process, there appears not to be any practical alternative to the proposed Third Amendment to cover the costs of staff, consultants and related non-personal expenses for the CVSP.

PUBLIC OUTREACH/INTEREST

The Coyote Valley Specific Plan effort involves extensive community outreach, as well as discussions with many other governmental agencies. To date, the Task Force has met more than 50 times. There have also been several well-attended community workshops, Technical Advisory Committee meetings consisting of staff from public and non-governmental agencies, and various other focus group and technical sub-committee meetings.

- ✓ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Though the City is being reimbursed for the over \$17.20 million dollar cost of preparing the specific plan by CHG, staff has determined that the project meets the spirit of Criteria 1 because of the extraordinary complexity and high degree of public interest involved in it. For this reason all Council memoranda and project documents are posted on a dedicated CVSP website at <http://www.sanjoseca.gov/coyotevalley/>.

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COORDINATION

The preparation of this memorandum has been coordinated with the City Attorney's Office. The Specific Plan effort involves almost all City Departments and many outside local, state, and federal agencies, including but not limited to the Santa Clara Valley Water District, Valley Transportation Agency, and the United States Army Corps of Engineers.

FISCAL/POLICY ALIGNMENT

The Coyote Valley Specific Plan is intended to implement the San Jose 2020 General Plan.

COST SUMMARY/IMPLICATIONS

The cost of preparing the Coyote Valley Specific Plan, EIR, and other regulatory documents is entirely funded by the CHG.

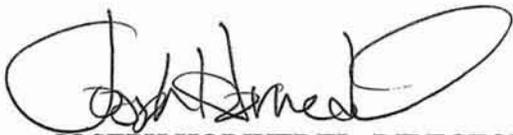
BUDGET REFERENCE

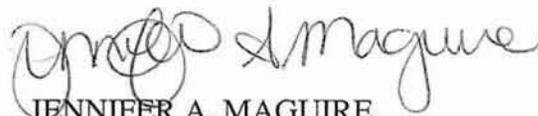
Fund #	Appn #	Appn Name	Total Appn	2007-2008 Proposed Operating Budget (Page)
001	3243	Coyote Valley Specific Plan and EIR	\$2,006,000	N/A*

* Funding was budgeted in 2006-2007, but was recommended for rebudget into 2007-2008, as a part of the Recommended Amendments to the 2007-2008 Proposed Operating and Capital Budget Manager's Budget Addendum. The 2007-2008 Operating Budget and the implementing appropriation ordinance and funding sources resolution are anticipated to be approved by the City Council on June 19, 2007.

CEQA

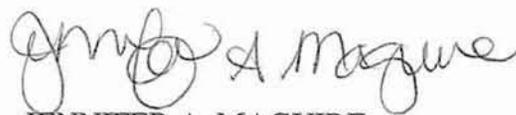
Exemption, PP03-06-211.


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement


JENNIFER A. MAGUIRE
Assistant Budget Director

For questions please contact Laurel Prevetti, Assistant Director of Planning, Building and Code Enforcement at 408-535-7901.

I hereby certify that there will be available for appropriation in the General Fund monies in the Fiscal Year 2007-2008 monies in excess of those heretofore appropriated there from, said excess being at least \$1,250,000.


JENNIFER A. MAGUIRE
Assistant Budget Director