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Title: RESOLUTION - Authorizing the Public Works Director and the Development and Resource Management Director to Execute Standard Agreements with the County of Fresno for Development in the City's Sphere of Influence, but not yet Annexed into the City's Corporate Boundaries

Sponsors: Public Works Department, Planning and Development Department

Indexes:

Code sections:

Attachments: 1. 19-0137 Resolution City-County, 2. 19-0137 Exhibit A Template Agreement.pdf

Date	Ver.	Action By	Action	Result
2/14/2019	1	City Council	adopted	Pass

REPORT TO THE CITY COUNCIL

February 14, 2019

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SUBJECT

RESOLUTION - Authorizing the Public Works Director and the Development and Resource Management Director to Execute Standard Agreements with the County of Fresno for Development in the City's Sphere of Influence, but not yet Annexed into the City's Corporate Boundaries

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving the attached County of Fresno template agreement for development within the City Sphere of Influence, but not yet annexed into the corporate boundaries, and authorize the Public Works Director or the Development and Resource

Management Director, or his or her designee, to execute the agreement on behalf of the City.

EXECUTIVE SUMMARY

As a common practice of the development/annexation process, a developer will apply to a city for approval of a development project on land within the city's sphere of influence, but not within the city's corporate boundaries. Upon approval of the land use entitlements by the city, either the city or the developer will initiate the annexation process and seek approval of the Local Agency Formation Commission (LAFCo) for the land to be annexed to the city. However, until LAFCo approves the annexation application, the city cannot authorize construction of the project without the County's approval.

The County of Fresno (County) has had Ordinance Code section 15.04.140 in place, which authorizes a city, subject to certain conditions, to permit and inspect the installation of certain improvements for residential and non-residential projects. The County Board of Supervisors, in September 2016, approved the attached template agreement (Agreement) that would be required to be executed between the County and the city approving the project. In order to enter into this Agreement, City Council will have to approve the Agreement and authorize the Public Works Director and the Development and Resource Management Director, or his or her designee, to sign all documents necessary to execute the Agreement.

BACKGROUND

Developers whose projects have received entitlements and are ready for construction have reached out to the City of Fresno (City) to move forward with construction while their project is in the annexation process with LAFCo. While these projects will ultimately reside within the City's incorporated limits, they are currently within County jurisdiction. The County has had Ordinance Code section 15.04.140 in place as a mechanism for the County to authorize limited improvements to be constructed subject to a city's oversight.

An executed agreement between the City and County substantially in the form of the template agreement would satisfy the requirements of Section 15.04.140. This section of the County Code allows an owner of property that is located in the unincorporated territory of the County, but which is in the process of being annexed to a city, to construct limited improvements that will be exempt from the requirements of Chapter 15.04 of the County's Ordinance Code, if the County's Building Official finds that the following conditions exist:

1. A city within the County has commenced by the adoption of an appropriate resolution, annexation proceedings of the owner's property upon which the limited improvements are to be constructed;
2. The city's building official has certified that the proposed limited improvements on the property will meet all city ordinances and that said city will enforce the provisions thereof;
3. The city has executed an agreement agreeing to the provisions of Chapter 15.04 of the County Ordinance Code, including indemnification of the County.

Section 15.04.140 requires the property owner to comply with all City ordinances, state and federal regulations relating to the construction of structures and division of land, including the securing of

permits as would be required if the property were within the incorporated area of the City.

The County Ordinance further provides that if the City issues permits for limited improvements prior to annexation of the property to the City, the City's Building Official shall issue a stop work order for the work authorized by such permits if any of the following occur:

1. The annexation proceedings required by the City are not consummated within one hundred twenty (120) days. The County's Building Official may grant up to two individual extensions not to exceed thirty days (30) each, and thereafter the City Council may grant additional extensions;
2. Annexation of the property to the City is denied by LAFCo;
3. The construction of the improvements does not comply with the City ordinances.

Should a stop work order be issued, the City would be responsible for bringing the property into compliance with the provisions of Chapter 15.04 of the Ordinance Code, and any additional construction on the property must comply with the County's Building Code.

ENVIRONMENTAL FINDINGS

This item is not a project as defined by the California Environmental Quality Act.

LOCAL PREFERENCE

Local preference was not considered because this agreement does not include a bid or award of a construction or services contract.

FISCAL IMPACT

There is no fiscal impact to the City associated with the recommended action.

Attachments:

Resolution City-County Annexation Development Agreement
Exhibit "A" Template Agreement