

**TO:** Andrew P. Powers, City Manager

**FROM:** Kelvin Parker, Community Development Director

**DATE:** May 21, 2024

**SUBJECT:** Environmental Consulting Services Agreement Amendment

**RECOMMENDATION:**

1. Approve Second Amendment to Task Order No. 3 (On-Call Contract No. 12520-2020) with Dudek Consulting of Santa Barbara, CA, for the environmental documents prepared for the Los Robles Comprehensive Cancer Center Project at 400 East Rolling Oaks Drive and zoning and land use designation changes at 355 West Janss Road, in the amount of \$54,825, increasing the total not-to-exceed amount to \$349,352.
2. Authorize staff to waive formal Request for Proposal/Qualifications (RFP/Q) process and amend the task order to allow a not-to-exceed amount above the \$125,000 task order threshold, pursuant to Thousand Oaks Municipal Code (TOMC) Section 3-10.501.
3. Authorize expenditure in the amount of \$54,825 from A/C #001-4210-641-5947 (General Fund - Contracted Services, Reimbursable).
4. Find that the approval of a professional services agreement is not a project under California Environmental Quality Act (CEQA) Guideline Section 15378(b)(5) (CCR, Title 14, Chapter 3, Article 20).

**LEVINE ACT ITEM: Yes**

**FINANCIAL IMPACT:**

**No Additional Funding Requested.** \$54,825 for the task order amendment for the preparation of an Environmental Impact Report (EIR) is included in the Adopted FY 2023-24 General Fund Budget. The costs will be reimbursed by the applicant. Other costs are limited to staff time to prepare the report and assist in the preparation of the EIR and are also offset by application fees paid by the applicant.

**BACKGROUND:**

On June 23, 2020, City Council approved on-call professional services agreements with firms for various services. Included in these firms was an agreement between the City and Dudek Consulting (Dudek) to provide the City with as-needed environmental consulting services up to \$125,000 per task order and not to exceed \$500,000 annually. On July 26, 2022, the City informally solicited proposals from 11 pre-qualified environmental consultants from the City's on-call consultant list. The City received three competitive proposals and the proposal review process was initiated. After thoroughly evaluating all proposals, Community Development Department staff selected Dudek as the most qualified for the CEQA consulting project based on their prior experience with the City and similar projects, availability, timelines, and proposed scope of work and schedule. Dudek has previously served as an environmental consultant who prepared several environmental documents implemented by the City and has provided consulting services for other public agencies. The City has been satisfied with Dudek's services and deliverables on previous projects.

On September 27, 2022, the City Council approved Task Order No. 3 (Attachment #1) with Dudek for \$116,030 and additional services of \$8,970<sup>1</sup> for a total not-to-exceed amount of \$125,000 to provide professional services in connection with the preparation of the EIR for the Los Robles Comprehensive Cancer Center.

On June 20, 2023, the City Council approved the First Amendment (Attachment #2) to Task Order No. 3 (On-Call Contract No. 12520-2020) with Dudek Consulting of Santa Barbara, CA, to complete environmental documents for the Los Robles Comprehensive Cancer Center Project at 400 East Rolling Oaks Drive, in the amount of \$169,527, increasing the total not-to-exceed amount to \$294,527.

**DISCUSSION/ANALYSIS:**

Task Order No. 3 and the first amendment to that task order were approved for a total not-to-exceed amount of \$294,527 based on an estimate to complete an EIR for environmental clearance. However, additional labor occurred to prepare responses to a significant volume of comments, extend the timeline for work, and prepare an additional deliverable (Findings of Fact) to meet the committed deadlines. More specifically, Task 8 of the Scope of Work (Attachment #3) is requested to be increased from \$36,800 to \$73,285 in order to respond to the unanticipated number of comments. Twenty-five comment letters were received, each of which contain one to 187 individual comments (the previous scope of work anticipated 30 individual comments only). In addition, the total amount allocated to Task 9 is requested to increase from \$31,076 to \$42,976 as the previous scope of work assumed a seven-month timetable, which was extended to 9 months with

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<sup>1</sup> The amounts stated in the Task Order No. 3 to Contract 12520-2020, included as Attachment #1 states the contingency amount as \$21,240, due to a mathematical error.

additional involvement of extraneous staff at internal and public meetings.

As such, the current task order amount does not cover the total cost based on the need for additional services. Therefore, staff is requesting a second amendment to compensate the consultant for delivering the environmental document and associated tasks.

The second Amendment to Task Order No. 3 (Attachment #3) is requested for \$54,825 to cover the amended scope of work which required additional resources for the preparation of the Final EIR and response to public comments; Mitigation, Monitoring, and Reporting Plan; Findings of Fact documents; and additional project management time. The applicant will pay an additional overhead fee so the City will fully recover its costs from the applicant.

As the total not-to-exceed amount will exceed \$125,000, the upper limit for a task order for an on-call contract, a waiver of this limit by the City Council is required. The City's purchasing requirements for a proposal that could exceed \$125,000 in value is to prepare and publish a separate formal RFP/Q for the project rather than use an On Call Agreement. TOMC Section 3-10.501, however, provides authority for City Council to waive a standard RFP/Q process under certain circumstances. Due to the consultant's extensive work on this project to date, staff is requesting City Council to waive the City's formal RFP/Q requirements and authorize City staff to amend the task order to allow a not-to-exceed amount above the \$125,000 task order threshold so that the current consultant can complete the work commenced. Staff is recommending that the City Council approve Amendment No. 2 to Task Order No. 3 (Contract No. 12520-2020) with Dudek in the amount of \$54,825, increasing the total not-to-exceed amount to \$349,352.

**LEVINE ACT (California Government Code § 84308):**

This item is subject to the Levine Act. City Councilmembers who have received a campaign contribution of more than \$250 (aggregated) within the preceding 12 months from a party or their agent/representative, or a financially interested participant involved in this proceeding may do either of the following: (1) disclose the contribution on the record and recuse themselves from this proceeding; or if applicable (2) return the portion of the contribution that exceeds \$250 within 30 days from the time the official knew or should have known about the contribution, and participate in the proceeding.

All parties and their agents/representatives must disclose on the record of this proceeding any aggregated contribution of more than \$250 made to any Councilmember within the preceding 12 months. Councilmembers are prohibited from accepting, soliciting, or directing a campaign contribution of more than \$250 (aggregated) from a party, their agent/representative, or a financially-interested

participant during a proceeding and for 12 months following the date a final decision is made. In addition, a party, their agent/representative, or a financially interested participant is prohibited from contributing more than \$250 (aggregated) to a Councilmember during a proceeding and for 12 months following the date a final decision is made.

**COUNCIL GOAL COMPLIANCE:**

Meets the following City Council goal:

C. Operate City government in a fiscally and managerially responsible and prudent manner to ensure that the City of Thousand Oaks remains one of California's most desirable places to live, work, visit, recreate, and raise a family.

**PREPARED BY:** Justine Kendall, Senior Planner

**Attachments:**

Attachment #1 – Task Order No. 3 to Contract No. 12520-2020

Attachment #2 – First Amendment to Task Order No. 3 to Contract No.  
12520-2020

Attachment #3 – Second Amendment to Task Order No. 3 to Contract No.  
12520-2020