

MEETING DATE: 11/8/2017

TITLE:

Amended and Restated Land Use Contract between City and Agua Caliente Tribe

FROM:

Charles P. McClendon, City Manager
Eric S. Vail, City Attorney

RECOMMENDATION:

Staff recommends the City Council approve the Amended and Restated Land Use Contract between the City and the Agua Caliente Tribe and authorize the Mayor to execute the Contract

BACKGROUND:

As a sovereign power, the Agua Caliente Band of Cahuilla Indians (the "Tribe") has land use regulatory authority over lands within their Reservation. Lands within the Reservation are either "Tribal Trust Lands" (land held in trust by the United States for the benefit of the Tribe), "Allotted Trust Lands" (land held in trust by the United States for the benefit of a member of the Tribe), and "On-Reservation Fee Lands" (land owned in fee by members or non-members for the Tribe that is within the boundaries of the Reservation). The Tribe has full authority to regulate land use on Tribal Trust Lands and Allotted Trust Lands, but the authority to regulate land use on On-Reservation Fee Lands is limited to situations where the owner has consented to such regulation or the owner undertakes activities that affect the political integrity, the economic security, or the health or welfare of the Tribe.

As the Tribe's Reservation is dispersed throughout the City, the Tribe has coordinated their land use regulation of certain Reservation lands with the City. In 1984, the City and the Tribe entered into an agreement whereby the Tribe agreed to subject Allotted Trust Lands located within the City subject to all land use laws, ordinances, codes, rules, regulations, or other similar enactments of the State and of the City, with certain exceptions (the "1984 Land Use Agreement"). Subsequent to the approval of the 1984 Land Use Agreement, the Tribe adopted Tribal Ordinance No. 10(b) making the City's land use and related regulations applicable to Allotted Trust Lands within the City. The 1984 Land Use Agreement was amended in 1987. In 1997, a similar land use agreement was executed between the Tribe and the City applicable to Allotted Trust Lands within Sections 2 and 14 of the Tribe's Reservation, which at the time of the 1984 Land Use Agreement were in unincorporated Riverside County (the "1997 Land Use Agreement").

DISCUSSION:

The proposed Amended and Restated Land Use Contract would supersede the 1984 Land Use Agreement and the 1997 Land Use Agreement. The terms of the proposed Amended and Restated Land Use Contract are by and large consistent with the terms of the 1984 and 1997 Land Use Agreements. As with the prior agreements, the Tribe will retain the sole land use authority over Tribal Trust Lands. Through the Contract, the Tribe agrees to make Allotted Trust Lands in the City subject to the City's land use regulations and administrative processes with certain exceptions, most notably outdoor advertising regulations and historic preservation regulations. Developments on Allotted Trust Land are subject to the City's development impact fees and dedication requirements. The Tribe retains the right to decline to have development impact fees apply to Allotted Trust Lands if the Tribe determines that they are unconstitutional under the federal or State constitutions. This power is also in the 1984 and 1997 Agreements and to staff's knowledge the Tribe has never exercised this right.

Developments on Allotted Trust Lands are subject to appeal to the Tribal Council after appeals through the City have been exhausted. The Contract requires the Tribal Council to meet with the City to review the appeal before making a final decision on the appeal, unless the City agrees to waive the right to meet. This appeal provision is consistent with existing provisions in the 1984 and 1997 Agreements. To staff's knowledge there has never been an appeal to the Tribal Council related to a development project on Allotted Trust Land in the City under the existing agreements.

FISCAL IMPACT:

None.

ATTACHMENTS:

Amended and Restated Land Use Contract