

CITY OF YUBA CITY
STAFF REPORT

Date: June 18, 2019
To: Honorable Mayor and Members of the City Council
From: Human Resources Department
Presentation By: Natalie Springer, Human Resources Director

Summary

Subject: Contract Amendment for Interim Director of Development Services
Recommendation: Adopt a Resolution authorizing the City Manager to amend the Executive Service Employee Employment Agreement
Fiscal Impact: Does not exceed current Development Services budget allocation

Purpose:

To amend the Executive Services employee agreement for Mr. Darin Gale to be appointed as Interim Development Services Director.

Background:

Mr. Gale has been a City employee for more than 10 years. Although Mr. Gale has served in various capacities over the years, his most recent assignment was Deputy City Manager, Economic Growth and Public Affairs in the City Manager's office. Due to the resignation of the Director of Development Services, Mr. Gale began providing management oversight to the Development Services Department in December 2018.

Through the FY 19-20 budget process, the position of Deputy City Manager, Economic Growth and Public Affairs was eliminated effective July 1, 2019. In order to maintain continuity within the Development Services Department and in an effort to provide oversight on development projects throughout the City, staff recommends modifying Mr. Gale's Executive Services employee agreement to allow Mr. Gale to transition to the Director of Development Services position on an interim basis.

Analysis:

Executive Service employees serve in "at will" positions and have individual employment contracts. The current employment contracts with Executive Service employees were put into effect in 2018. Contract amendments are utilized to reflect changing terms and conditions of employment. The current contract amendment recommendation for Mr. Gale would clean-up conflicting language in the severance section regarding CalPERS. In the severance section of the agreement, the City is required to pay a lump sum to the employee and continue to report the employee in CalPERS. The City cannot continue to report a terminated employee in CalPERS, hence the requirement for this language change.

Staff recommends that Mr. Gale continue as the Interim Director of Development Services at this time. The terms of the Executive Service Employee Agreement Amendment for Mr. Gale allow the City to exit this interim appointment at any time.

Fiscal Impact:

The proposed changes do not exceed the current Development Services budget allocation.

Alternatives:

Do not approve Contract Amendment for Mr. Gale and provide staff direction.

Recommendation:

Adopt a Resolution authorizing the City Manager to amend the Executive Service Employee Employment Agreement for Mr. Gale.

Attachments:

1. Executive Service Amendment Resolution
2. Executive Service Employee Agreement Amendment – Mr. Gale

Prepared By:

/s/ Natalie Springer

Natalie Springer
Human Resources Director

Submitted By:

/s/ Diana Langley

Diana Langley
Interim City Manager

Reviewed By:

Finance
City Attorney

RB
SLC by email

ATTACHMENT 1

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AUTHORIZING THE CITY MANAGER TO AMEND THE EXECUTIVE
SERVICE EMPLOYEE AGREEMENT FOR MR. GALE**

WHEREAS, the City recognizes Mr. Gale's commitment to the City and its citizens; and

WHEREAS, Executive Service employees are "at will" employees and have individual employee contracts that reflect the terms of their employment; and

WHEREAS, the Executive Service's amendments are in addition to their contract agreements; and

WHEREAS, Mr. Gale has been serving in the City Manager, Economic and Public Affairs position; and

WHEREAS, the Deputy City Manager, Economic Growth and Public Affairs position was eliminated as part of the FY 19-20 budget process; and

WHEREAS, Mr. Gale has also been serving as the Interim Director of Development Services capacity since December 2018; and

WHEREAS, the City Council desires to approve an updated agreement with Mr. Gale for Interim Director of Development Services position.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuba City as follows:

1. The City Council approves the amended agreement with Mr. Gale and authorizes the City Manager to execute the same.

The foregoing Resolution of the City Council of the City of Yuba City was duly introduced, passed and adopted at a regular meeting thereof held on the 18TH day of June 2019.

AYES:

NOES:

ABSENT:

ATTEST

Shon Harris, Mayor

Patricia Buckland, City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

ATTACHMENT 2

Amendment to Employment agreement between the City of Yuba City and Darin Gale.

This Third Amendment to the Employment Agreement dated September 16, 2014, as twice previously amended (collectively “the Employment Agreement”), is made by and between the City of Yuba City, a general law city, and Darin Gale, with respect to modifying the terms and conditions of employment for Fiscal Year 2019-2020.

1. As a part of its most recent budget review and adoption process, City has eliminated position of Deputy City Manager, Economic Growth and Public Affairs effective at close of business June 30, 2019. Based on this position elimination, Employee will be paid three months’ severance in accordance with Section 9 of the Employment Agreement (as it existed prior to this Amendment) in a lump sum payment on or about July 11, 2019, including payouts of accrued vacation, and administrative leave and, to the extent permitted under the City’s personnel rules, accrued sick leave. Said amounts shall be calculated at Employee’s current rate of pay pursuant to the Employment Agreement as it exists prior to this amendment.
2. Employee shall retain his current City employment in the position of Interim Development Services Director. The Employment Agreement and prior Employment Agreement Amendment Letters are hereby amended to replace all references to “Economic Growth and Public Affairs Manager” with the title “Interim Development Services Director.”
3. Employee has temporarily been serving as Interim Development Services Director and has been being paid at the associated compensation rate for Development Services Director in accordance with the City’s publicly-available pay schedule. This compensation rate shall continue under this Third Amendment.
4. Moving forward, Section 5 of the Employment Agreement will be amended to strike the sentence: “The Employee shall annually be credited with eighty (80) hours of administrative leave per year.” No administrative leave shall be provided to Employee while in the Interim Development Services Director Position.
5. Moving forward, Section 9 of the Employment Agreement is hereby eliminated in its entirety (i.e. no severance benefit shall be provided under the Employment Agreement as hereby amended) for Interim Development Services Director.
6. Except as hereby amended, the Employment Agreement shall continue in full force and effect.
7. This Third Amendment shall become effective upon the later of July 1, 2019 or the latest date of signature below.
8. This Agreement may be executed by the Parties in counterparts, with the same force and effect as if each party signed the same document. In addition, a signature by facsimile or electronic scanning has the same force and effect as an original signature.

Dated: _____

Darin Gale
Interim Development Services Director

Dated: _____

Diana Langley
Interim City Manager

Attest:

Approved as to Form:

City Clerk

Stacey Sheston, Special Counsel
Best, Best and Krieger, LLP