



# CITY COUNCIL STAFF REPORT



**March 28, 2023**

## **ITEM TITLE**

Agreement and Appropriation: Approve a First Amendment to the Legal Services Agreement with Gatzke Dillon & Ballance LLP to Provide On-Call Legal Services for the Development Services Department and Appropriate Funds

**Report Number:** 23-0076

**Location:** No specific geographic location

**Department:** Development Services

**Environmental Notice:** The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act (“CEQA”) State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

## **Recommended Action**

Adopt a resolution approving the first amendment to the Legal Services Agreement with Gatzke Dillon & Balance LLP for on-call legal services to assist the Development Services Department for a not-to-exceed amount of \$412,500 and amend the Fiscal Year 2022/23 Development Services Fund budget for that purpose. **(4/5 Vote Required)**

## **SUMMARY**

The Development Services Department processes a variety of permits for private development projects that require legal review and/or consultation throughout the permitting process, including support of the Planning Commission. This amendment will allow Development Services to request legal review directly with Gatzke, Dillon & Ballance, LLP in support of private development project permitting and Planning Commission. As part of their legal services, Gatzke, Dillon & Balance, LLP reviews project documents scheduled for Planning Commission and attends Planning Commission meetings on behalf of the City Attorney’s Office.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed activity for compliance with CEQA and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines

because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable

## **DISCUSSION**

The City of Chula Vista (“City”) has an important business need for on-call legal services to support the Development Services Department for private development projects. On June 23, 2021, the City entered into a Legal Services Agreement (“Agreement”) with Gatzke, Dillon & Ballance LLP, for a one-year term after the effective date (June 23, 2021) with the option to extend the term of the Agreement for up to five (5) one-year increments. The Agreement provides on-call legal services to assist the Development Services Department with a not-to-exceed amount of \$50,000 (Attachments 1 and 2).

The Development Services Department provides permitting services for a variety of projects, from individual home owners to large development of subdivisions, for private development projects throughout the City. Many of these projects may require the need for legal review at any point in the permitting process, including projects that require Planning Commission approval.

With retirements of key staff in the City Attorney’s Office, Development Services began to use the on-call legal services of Gatzke, Dillon & Ballance LLP in November 2022. To date, Gatzke, Dillon & Ballance LLP has reviewed many development projects requiring Planning Commission approval; supported staff at a Zoning Administrator Public Hearing; supported staff at City Council for projects and supported staff on an appeal of the Zoning Administrator’s decision. To date, Development Services has found Gatzke, Dillon & Ballance LLP very responsive with all requested legal service needs. Prompt legal review of development projects allows Development Services to continue to provide our customer’s quality services they expect from the City. Additionally, the prompt responsiveness of legal services reduces delays in developer’s being able to deliver housing units within the City.

Given the large volume of projects in Development Services, the capacity of \$50,000 in the Agreement has been expended. The requested first amendment to the Agreement will increase the capacity an additional not-to-exceed amount of \$412,500. The amendment is not requesting any other changes to the provisions within the original Agreement. It is anticipated that most of the work performed under the first amendment will be directly paid by developer deposit accounts. Development Services has recently implemented a regular review and update of the City’s Municipal Code. The code amendment items are funded by the General Fund. Development Services anticipates that work paid from the General Fund will be within the current year’s budget.

Staff recommends that the City Council adopt the Resolution to approve the first amendment to the Agreement for a not-to-exceed amount of \$412,500.

## **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov’t Code § 87100, et

seq.). Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

Approval of this action amends the current fiscal year budget of the Development Services Fund, increasing revenues and expenditures in the amount of \$412,500, resulting in no net fiscal impact. Any work outside the Development Services Fund will be accommodated within existing budgets.

### **ONGOING FISCAL IMPACT**

The proposed amendment amount was calculated to cover expected services to be provided through the end of the current contract (October 28, 2023). Any funds not expended in the current fiscal year will be rolled forward to fiscal year 2023-24 to cover the period July 1, 2023 through October 28, 2023.

### **ATTACHMENTS**

1. Legal Services Agreement, dated June 23, 2021
2. Option to Extend Legal Services Agreement
3. First Amendment to Legal Services Agreement

*Staff Contact: Laura C. Black, AICP, Director of Development Services*