



CITY COUNCIL STAFF REPORT



March 26, 2024

ITEM TITLE

Agreement and Appropriation: Approve a Third 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 for that Purpose

Report Number: 24-0075

Location: No specific geographic location

Department: Development Services

G.C. § 84308: Yes

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 third amendment to the Legal Services Agreement with Gatzke, Dillon & Balance, LLP for on-call legal services to assist the Development Services Department for an additional \$250,000 and amending the fiscal year 2023-24 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 obtain legal services with Gatzke, Dillon & Ballance, LLP in support of private development project permitting, including attendance at Planning Commission and City Council meetings. As part of their legal services, Gatzke, Dillon & Ballance, LLP reviews project documents scheduled for Planning Commission and City Council and attends Planning Commission and City Council 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 per year (Attachments 1 and 2).

The Development Services Department provides permitting services for a variety of projects, from individual homeowners 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 and/or City Council 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 and/or City Council 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 customers with the quality services they expect from the City. Additionally, the prompt responsiveness of legal services reduces delays in delivering housing units within the City.

Given the large volume of projects in Development Services, the capacity in the Agreement is close to being expended. On March 28, 2023, the First Amendment to the Agreement was executed amending Section 3.1 of the Agreement to change the not to exceed amount from \$50,000 to \$412,500 for the October 28, 2022 to October 28, 2023 extension term (Attachment 3). On October 29, 2023, the Second Amendment to the Agreement was executed amending Section 3.1 of the Agreement to extend the agreement for an additional term running from October 29, 2023 through October 28, 2024, and to carry forward any unspent balance from the 2022-2023 term into the new term 2023-2024 term (Attachment 4).

The 2023-2024 Agreement term at present therefore includes the previously approved \$50,000 per year contract amount and any unspent balance from the 2022-2023 term. The Third Amendment proposes to add an additional \$250,000 to the contract to cover additional legal expenses through at least June 30, 2024, the end of the fiscal year. This third amendment is not requesting any other changes to the provisions within the original Agreement. Development Services will work with the newly elected City Attorney towards the end of the fiscal year to determine how best to address City Attorney support for the privately funded development projects in process with Development Services.

It is anticipated that most of the work performed under the third 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 third amendment to the Agreement adding an additional \$250,000 to the current 2023-2024 contract term.

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 \$250,000, 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 fiscal year, June 30, 2024. Any unspent funds remaining at the close of fiscal year 2023-24 will be included in the fiscal year 2024-25 budget to be used for any expenditures incurred through October 28, 2024.

ATTACHMENTS

1. Legal Services Agreement, dated June 23, 2021
2. Option to Extend Legal Services Agreement
3. First Amendment to Legal Services Agreement, dated March 28, 2023
4. Second Amendment to Legal Services Agreement, dated October 29, 2023
5. Third Amendment to Legal Services Agreement

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