

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

917



FROM: TLMA – Airport Land Use Commission

SUBMITTAL DATE:
May 22, 2013

SUBJECT: Second Amendment to the Contract for the Provision of Legal Services for the Airport Land Use Commission.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1). Approve the attached Second Amendment to the contract with the Law Firm of Gatzke Dillon & Ballance, LLP.;
- 2). Authorize the Chairman to execute the Second Amendment

BACKGROUND: The law firm of Gatzke Dillon & Balance (GDB) specializes in land use law, environmental law, aviation law and airport law. GDB also serves as legal adviser for the State Airport Land Use Planning Handbook published by California's Caltrans Division of Aeronautics and possesses the needed legal expertise in matters related to the drafting of airport land use compatibility plans and related environmental documentation. (Continued - 2 pages in total)



Juan Perez, TLMA Agency Director



Ed Cooper, Director, ALUC

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 7,500(est)	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 4,028 (est)	Budget Adjustment:	No
	Annual Net County Cost:	\$ 10,740(est)	For Fiscal Year:	2014

SOURCE OF FUNDS: 43.6% Development Fees; 53.7% General Funds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
BY: 
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: B.T.M. 5/23/13
BEAUFORD T. MILLER, JR. DATE
Departmental Concurrence

Consent Policy
 Consent Policy

Prev. Agn. Ref.: 3.33 of 03/18/08 **District:** ALL **Agenda Number:** 3-36
 3.48 of 10/19/10
 ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

5000 700 18 64 5:30
 COUNTY OF RIVERSIDE
 CLERK OF THE BOARD OF SUPERVISORS

The Honorable Board of Supervisors
Subject: Second Amendment to the Contract for the Provisions of Legal
Services for the Airport Land Use Commission
May 22, 2013
Page 2 of 2

BACKGROUND:

On December 18, 2012, Agenda Item No. 3.51, the Board approved a professional services contract and reimbursement agreements with the March Air Reserve Base (March ARB) Joint Powers Authority (JPA) and the Cities of Riverside, Moreno Valley and Perris to initiate work on an Environmental Impact Report (EIR) that will permit the ALUC to adopt the JPA's Joint Land Use Study (JLUS) as its Airport Land Use Compatibility Plan (ALUCP) for the March ARB. The EIR is scheduled to be completed over the next 18 months.

It is well recognized that an ALUCP for the March ARB is long overdue. Through the public partnership efforts of the County, the JPA and the cities of Riverside, Moreno Valley and Perris over the last several years, with the preparation of the EIR, the ALUC will finally be able to adopt an ALUCP for the March ARB.

As a consequence, and because of the large geographic area surrounding the airport to which the ALUCP will apply, the project is significant and requires the drafting of an EIR that is legally adequate and defensible. Since working with GDB, the ALUC has adopted a number of airport compatibility plans, including environmental documents, without legal challenge.

Because GDB possesses the demonstrated legal expertise needed by the ALUC to draft the EIR and adopt the proposed ALUCP for the March ARB, it is recommended that the current Contract be extended to June 30th, 2015.

Services under the proposed Contract will continue to be rendered on an "as needed" basis with compensation for said services not to exceed \$100,000 per year. Although the actual costs of the Contractor's services to date have been much lower than the not-to-exceed contract amount, staff recommends keeping the contract cap at \$100,000 given the litigation exposure generally created by the adoption of a significant project such as the ALUCP for the March ARB.

In addition to extending the term of the Contract, the proposed Second Amendment will adjust the Contractor's hourly rates starting July 1st, 2013. The new rates have been reviewed by County Counsel and found competitive.

**SECOND AMENDMENT TO AGREEMENT FOR LEGAL SERVICES FOR THE
RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION**

That certain Agreement between the COUNTY OF RIVERSIDE ("COUNTY") and GATZKE DILLON & BALLANCE, LLP ("ATTORNEYS") entered into on March 18, 2008, Agenda Item No. 3.33, as subsequently amended on October 19, 2010, Agenda Item No. 3.48, for legal services for the Riverside County Airport Land Use Commission (ALUC), is hereby further amended, effective date of execution, as follows:

To amend Section 1. Term to read:

"The term of this Agreement shall begin upon execution by each party, and shall continue through June 30, 2015."

To amend Section 12. Fees to read:

"The billing rate for all attorneys and legal assistants that provide services under this AGREEMENT shall be:

\$275.00 per hour for partners
\$200.00 per hour for associate attorneys
\$100.00 per hour for legal assistants

"Starting July 1, 2013, the billing rate for all attorneys and legal assistants that provide services under this AGREEMENT shall be:

\$325.00 per hour for partners;
\$240.00 per hour for associate attorneys; and
\$125.00 per hour for legal assistants

"Billing rates may be subject to review and adjustment, as agreed between the COUNTY and ATTORNEYS, only after one year from the date of execution of this AGREEMENT. Any rate increase shall require an amendment to this AGREEMENT."

To amend Section 14. Billings and Payments to read:

"ATTORNEYS shall submit its billing statement at least quarterly, but no more frequently than monthly, in arrears, no later than the last day of the month following the month(s) for which services were rendered. The original billing statement(s) and one copy shall be submitted to:

Riverside County Airport Land use Commission

Attn: Mr. Ed Cooper, Director
County Administrative Center
4080 Lemon Street, 14th Floor
Riverside, CA 92501

With a copy to:

Office of County Counsel of Riverside County
Attn: ALUC Legal Counsel
3060 Orange Street, Fifth Floor
Riverside, CA 92501

"The original of each billing statement shall have the declaration of ATTORNEYS' Supervising Attorney and shall be identified by a unique number and shall be itemized to include: (i) staffing level(s), hourly rates and specific activities for each attorney and/or paralegals; (ii) listing of each activity as a line item in a time reporting format with a detailed description of specific activities for each attorney and/or paralegal; (iii) total current period fees and total cumulative fees billed for each staffing level; and (iv) current period expenses and total cumulative expenses billed in itemized categories, including all invoices for disbursements paid to others.

"It is the expectation of COUNTY that it will not be billed for ordinary overhead expenses, including (i) ordinary word processing; and (ii) time to prepare and review billings. Reimbursable charges would include (i) telephone calls; (ii) express mail when deemed necessary; (iii) fax charges; (iv) photocopy charges (within industry standards); and (v) travel time and expenses at prudent levels for travel to and from Riverside County, and outside of the southern California area, with prior authorization of RCALUC.

"ATTORNEYS shall have and maintain all backup documentation to support all entries included in the monthly billing statement. Such documentation shall be in a form subject to audit and in accordance with generally accepted accounting principles. ATTORNEYS shall make such documentation available to auditors upon request and at such reasonable times and locations as may be agreed to between the RCALUC's Staff Counsel and ATTORNEYS.

"The COUNTY shall make payment(s) for services rendered under this AGREEMENT monthly in arrears based on the itemized billing statement(s) ATTORNEYS submit to the RCALUC's Staff Counsel. The RCALUC's Staff Counsel shall review all billing statements in accordance with the terms of this AGREEMENT and applicable COUNTY policies and standards. The COUNTY shall make its best effort to process payments promptly after receiving ATTORNEYS' monthly billing statement. The COUNTY shall not pay interest or finance charges on any outstanding balance(s)."

To amend Section 19. Notices to read:

"All notices and required reports shall be written and hand-delivered or mailed by first class, postage prepaid, addressed to the RCALUC or ATTORNEYS at the addresses below, or at any other address the RCALUC or ATTORNEYS shall provide in writing to each other:

If to ALUC:

Office of County Counsel
Attn: ALUC Legal Counsel
3960 Orange Street, Fifth Floor
Riverside, CA 92501

If to ATTORNEYS:

Lori D. Ballance or Mark J. Dillon, Partners
Gatzke Dillon & Ballance LLP
2762 Gateway Road
Carlsbad, CA 92009

All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment.

COUNTY OF RIVERSIDE

ATTORNEYS

GATZKE DILLON & BALLANCE, LLP

By: _____
Chairperson, Board of Supervisors

By: Mark J. Dillon

Date: _____

MARK J. DILLON

Type or Print Name

Title: PARTNER

ATTEST:
Kecia Harper-Ihem, Clerk

By: _____
Deputy

BTM:md

FORM APPROVED COUNTY COUNSEL

BY: B. T. Miller, Jr. 5/23/13
BEAUFORD T. MILLER, JR DATE