(R-2016-214) CORR.COPY Them #116 12-8-2015

RESOLUTION NUMBER R- 310124

DATE OF FINAL PASSAGE DEC 16 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE THIRD AMENDMENT TO THE LITIGATION CONSULTING SERVICES AGREEMENT IN CONNECTION WITH THE LAWSUIT ENTITLED CITY OF SAN DIEGO V. BLACK MOUNTAIN RANCH, LLC, ET AL., CASE NO. 37-2014-00019435 –CU-CD-DTL.

WHEREAS, on June 10, 2014, the City Council authorized the City Attorney's office to initiate litigation against Black Mountain Ranch, LLC and other entities related to construction defects observed on Carmel Valley Road from Black Mountain Road east to Wine Creek Road.; and

WHEREAS, on June 16, 2014 the City filed its lawsuit for construction defects against Black Mountain Ranch, LLC and the contractors responsible for construction of Carmel Valley Road; and

WHEREAS, the City retained Steve Helfrich of Helfrich-Associates to consult as a geotechnical engineering expert under an initial contract not to exceed \$75,000; and

WHEREAS, once the scope of the geotechnical investigation was determined, the contract was amended and \$75,000 was added into the contract; and

WHEREAS, once the geotechnical investigation was completed and the amount of work that needed to be completed in order to comply with the Case Management Order was determined, the contract was amended a second time and \$90,000 was added into the contract; and

(R-2016-214) CORR.COPY

WHEREAS, the defendants have elected to conduct their own intrusive testing, Helfrich-

Associates will have to observe the testing, review discovery documents, analyze defense expert

reports, prepare responses to defense expert reports, attend mediation and prepare for deposition

and trial testimony, the contract needs to be amended a third time to add an additional \$110,000;

and

NOW THEREFORE,

BE IT RESOLVED, the Mayor or his designee is authorized to execute a Third

Amendment to the Litigation Consulting Services Agreement with Helfrich-Associates for the

geotechnical consulting services being provided to the City for lawsuit entitled City of San Diego

v. Black Mountain Ranch, LLC, et al., Case No. 37-2014-00019435 -CU-CDDTL in an amount

not to exceed \$110,000; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend

an amount not to exceed \$110,000 from Fund 100000 - General Fund, Transportation and Storm

Water Department (2116), for the purpose of executing this agreement and contingent upon the

Chief Financial Officer first furnishing one or more certificates certifying that funds necessary

for expenditure are, or will be, on deposit with the City Treasurer.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

JET:tsc

October 28, 2015

Or.Dept: City Attorney CC No. 3000008368

Doc. No.: 1159856

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of <u>DEC 0 8 2015</u>

ELIZABETH S. MALAND

	City Clerk
Approved: 12/15/15	By Arab Clerk Deputy City Clerk KEVIN L. FAULCONER, Mayor
Vetoed:(date)	KEVIN L. FAULCONER, Mayo

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