

Item #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

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





Jon E. Taylor
Deputy City Attorney

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 DEC 08 2015

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

KEVIN L. FAULCONER, Mayor

Approved: 12/15/15
(date)

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING CC 3000008368
 DEPT. NO.: 2116

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____

Purpose: _____

Date: _____ By: _____

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
TOTAL AMOUNT									

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$110,000.00

Vendor: Helfrich-Associates

Purpose: E1472 - To authorize the expenditures of funds not to exceed \$110,000.00 for a Third Amendment to the Litigation Consulting Services Agreement with Helfrich-Associates for the geotechnical consulting services.

Date: November 20, 2015 By: Van Nguyen

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
001		100000		512059	OTHR-00000000-TR	2116	2116110001	11003223	\$110,000.00
TOTAL AMOUNT									\$110,000.00

FUND OVERRIDE

CC 3000008368

Passed by the Council of The City of San Diego on DEC 08 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 16 2015

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of, The City of San Diego, California.

(Seal)

By *Stacy Brady*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **310124**