

RESOLUTION NUMBER R- 310230

DATE OF FINAL PASSAGE FEB 09 2016

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO RETAIN GORDON REES SCULLY MANSUKHANI, LLP. FOR LITIGATION SERVICES RELATING TO THE DE ANZA COVE MOBILE HOME PARK LITIGATION, INCLUDING *DE ANZA COVE HOMEOWNERS, INC. V. CITY OF SAN DIEGO, ET AL.*, SDSC CASE NO. GIC821191 AND *AGLIO ET AL. V. CITY OF SAN DIEGO*, SDSC CASE NO. 37-2009-81994

WHEREAS, on November 18, 2003, the De Anza Homeowners Association filed a class action lawsuit against the City entitled, *De Anza Cove Homeowners Association, et al. v. City of San Diego*, San Diego Superior Court Case No. GIC 821191 (“De Anza”). The lawsuit alleged various causes of action, including violations of the state’s Mobilehome Residency Law; and

WHEREAS, a second lawsuit was filed in 2009 by residents who had previously settled with the City and agreed to vacate the property by 2008. This lawsuit entitled, *Aglio, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2009-00081994-CU-EI-CTL (“*Aglio*”), seeks to set aside the settlement agreements and allow these residents to seek remedies similar to the De Anza lawsuit; and

WHEREAS, Scottsdale Insurance Company, subject to a reservation of rights, provided the City with a defense, employing the firm of Gordon Rees Scully Mansukhani, LLP, (“Gordon and Rees”); and

WHEREAS, in 2008, Scottsdale Insurance Company filed a declaratory relief action against the City, *Scottsdale Insurance Company v. City of San Diego, et al.*, San Diego County Superior Court Case No. 37-2008-00083941-CU-IC-CTL. That declaratory relief action sought a

ruling regarding Scottsdale's rights and obligations under the policy. Scottsdale Insurance Company also filed a contribution action against Everest Insurance Company and Columbia Casualty Company; and

WHEREAS, on October 21, 2015, Scottsdale's defense obligation was resolved by way of a settlement with Scottsdale Insurance Company, Everest Insurance Company and the City. As a result on that settlement, the City received payment of \$2,777,500 from Scottsdale Insurance Company and Everest Insurance Company. Pursuant to the settlement, the defense obligations of Scottsdale and Everest Insurance Companies terminated on August 31, 2015; and

WHEREAS, the City has been defended by Gordon and Rees Scully in certain De Anza Cove Mobilehome Park lawsuits since 2003, Gordon and Rees possesses specialized knowledge and experience attendant with its twelve year defense of the City in the De Anza lawsuits, thereby possessing unique knowledge and experience in this matter that is beyond that available in the Office of the City Attorney, and therefore the City desires to continue to utilize the services of Gordon and Rees for the finalization of the De Anza litigation and the defense of *Aglio*; and

WHEREAS, in Closed Session on June 2, 2015, the City Council discussed the settlement offer of Scottsdale and Everest related to Scottsdale's declaratory relief lawsuit, including discussion of the termination of defense obligations by Scottsdale and Everest Insurance Companies and the continuing defense of the *De Anza* and *Aglio* lawsuits by Gordon and Rees, approving said settlement by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8 and 9; Nays, None; and Absent, None/All Present District 8, passed the motion; and

WHEREAS, the agreement for legal services ("Agreement"), between the City and Gordon and Rees is for an amount not to exceed \$300,000, and shall run from the date the last

party signs the Agreement, and it is approved by the City Attorney in accordance with San Diego Charter section 40, until the scope of services defined in the Agreement is complete, but not for a term exceeding five years unless an extension is approved by ordinance of the Council of the City of San Diego pursuant to San Diego Charter section 99; and;

WHEREAS, the funding for the Agreement shall be borne by Public Liability Fund 720045; NOW, THEREFORE:

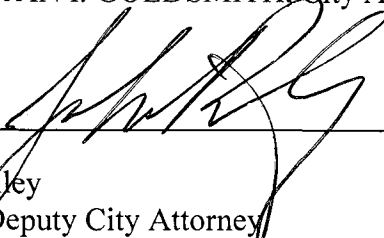
BE IT RESOLVED, by the Council of the City of San Diego, that the Council approves the Agreement and authorizes and directs the Mayor or his designee to sign the Agreement for legal services with Gordon and Rees.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend an amount up to \$300,000 for the Agreement with Gordon and Rees

BE IT FURTHER RESOLVED, that the actions authorized herein are contingent upon the Chief Financial Officer first furnishing one or more certificates stating that funds necessary for the authorized expenditures are, or will be, on deposit with the City Treasurer.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



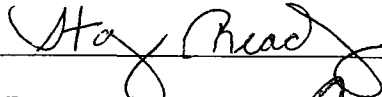
John Riley
Chief Deputy City Attorney

JER:aml
January 8, 2016
January 27, 2016 Rev.
Or. Dept: READ
CC No. 3000008092
Doc. No.: 1200510

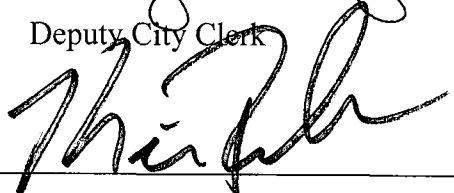
I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 26 2016.

ELIZABETH S. MALAND

City Clerk

By 
Deputy City Clerk

Approved: 2/5/16
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING CC 3000008092
 DEPT. NO.: 1515

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	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	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: \$300,000.00

Vendor: Gordon, Rees, Scully, Mansukani, LLP.

Purpose: legal servies with above party for representaion and coueseling in the De Anaza Cove litigation, including the Aglio lawsuit.

Date: August 10, 2015

By: Holly Hernandez
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
01	720045			OTHR-00000000-GG	512042	1515	1515000011		\$300,000.00
TOTAL AMOUNT									\$300,000.00

Passed by the Council of The City of San Diego on JAN 26 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 FEB 09 2016.

(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 , Deputy

Office of the City Clerk, San Diego, California

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