

#102
4.26.16

(R-2016-450)

RESOLUTION NUMBER R- 310385

DATE OF FINAL PASSAGE MAY 04 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AMENDMENT NO. 2 TO THE AGREEMENT FOR LEGAL SERVICES WITH PROCOPIO, CORY, HARGREAVES & SAVITCH LLP, FOR AN AMOUNT NOT TO EXCEED \$475,000; AUTHORIZING AND DIRECTING THE MAYOR TO SIGN THE AGREEMENT; AND AUTHORIZING THE CHIEF FINANCIAL OFFICER TO EXPEND SPECIFIED AMOUNTS UNDER THE AGREEMENT

WHEREAS, the City of San Diego ("City") is a named defendant in cases related to a mobilehome park in Mission Bay entitled: *De Anza Cove Homeowners Association, et al. v. City of San Diego*, San Diego Superior Court Case No. GIC 821191 ("*De Anza*"); *Aglio, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2009-00081994-CU-EI-CTL ("*Aglio*"); *Scottsdale Insurance Co. v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00093941-CU-IC-CTL ("*Scottsdale*"); *Certain Interested Underwriters at Lloyd's v. Terra Vista Management, Inc., et al.*, San Diego Superior Court Case No. 37-2008-00092709-CU-MC-CTL ("*Lloyd's*") and

WHEREAS, the City retained the law firm of Procopio, Cory, Hargreaves & Savitch LLP ("*Procopio*") to represent and counsel the City in *De Anza*, *Aglio*, *Scottsdale*, *Lloyd's* and *Scottsdale Insurance Co. v Everest Indemnity Insurance Co, Columbia Casualty Co*; SDSC 2012-00094815 ("*Scottsdale Contribution*") and

WHEREAS, the City has also retained Procopio to pursue an excess insurance coverage claim with the California State Association of Counties ("*CSAC*") and

WHEREAS, the City proposes to retain Procopio to represent and provide counsel with respect to the lawsuit known as *DJ St. Jon v. Tatro, et al.*, United States District Court for the Southern District of California, Case No. 3:15-cv-2552-L-JLB ("*St. Jon*"), and

WHEREAS, the City desires to continue to utilize the services of Procopio for insurance coverage analysis and representation related to the *De Anza, Aglio, Scottsdale, Lloyds, Scottsdale Contribution, CSAC* and the new matter, *St. Jon* Litigation, and

WHEREAS, Procopio possess the specialized knowledge and experience, beyond that available in the Office of the City Attorney, that is necessary to provide insurance coverage services and strategic lawsuit against public participation experience to the City related to the *De Anza, Aglio, Scottsdale, Lloyds, Scottsdale Contribution, CSAC* and the new matter, *St. Jon* Litigation, and

WHEREAS, the Amendment No. 2 to the Agreement for Legal Services between the City and Procopio is for an amount not to exceed \$475,000, and shall run from the date the last party signs the Amendment No. 2 to the Agreement for Legal Services, and it is approved by the City Attorney in accordance with San Diego Charter section 40, until the scope of services defined in the Amended Agreement No. 2 is complete, but not for a term exceeding five years from the date of the initial agreement, 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 Amendment No. 2 to the Agreement for Legal Services 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 Amendment No. 2 to the Agreement for Legal Services and authorizes and directs the Mayor

or his designee to sign the Amendment No. 2 to the Agreement for Legal Services with Procopio, Cory, Hargreaves & Savitch LLP.

BE IT FURTHER RESOLVED that the Chief Financial Officer is authorized to appropriate and expend an amount up to \$475,000 from the Public Liability Fund, Fund 720045 contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.


APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Walter Chung
Deputy City Attorney


WC:aml
April 6, 2016
Or. Dept: City Atty
CC: 3000008690
Doc. No. 1227624

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

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5/3/16
(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 3000008690
 DEPT. NO.: 1211

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: \$475,000.00

Vendor: Procopio, Cory, Hargreaves & Savitch, LLP

Purpose: Authorizing the Chief Financial Officer to appropriate and expend \$475,000.00 for the agreement with Procopio, Cory, Hargreaves & Savitch, LLP, and for the Chief Financial Officer to furnish one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Date: March 16, 2016 By: Jonathan Alfuentes

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	720045			OTHR-00000000-GG	512042	1515	1515000011		\$475,000.00
TOTAL AMOUNT									\$475,000.00

FUND OVERRIDE

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

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

Date of final passage MAY 04 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.

(Seal)

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

By *Stacy Bracy*, Deputy

Office of the City Clerk, San Diego, California

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