

RESOLUTION NUMBER R- 310423

DATE OF FINAL PASSAGE MAY 27 2016

ITEM #107
5/17/16

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE CITY'S RETENTION OF THE LAW FIRM OF OPPER & VARCO LLP AS OUTSIDE COUNSEL IN THE AREAS OF ENVIRONMENTAL LAW AND HAZARDOUS SUBSTANCES LIABILITY RELATED TO NON-HOUSING ASSETS OF THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO.

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City), and there are presently fourteen such project areas; and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill x1 26 (AB 26), as modified by the California Supreme Court in *California Redevelopment Assn v. Matosantos*, 53 Cal. 4th 231 (2011); and

WHEREAS, before the Former RDA's dissolution, the City Council adopted Resolution No. R-307238 effective January 12, 2012, designating the City to serve as the successor agency to the Former RDA (Successor Agency) pursuant to California Health and Safety Code (Code) section 34173(d)(1), and further designating the City to serve as the housing successor to the Former RDA for purposes of performing the Former RDA's housing functions pursuant to Code section 34176(a)(1); and

WHEREAS, upon the Former RDA's dissolution on February 1, 2012, the Successor Agency became vested with all of the Former RDA's authority, rights, powers, duties, and obligations under the California Community Redevelopment Law (Redevelopment Law); and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, Assembly Bill 1484, enacted on June 27, 2012, and subsequent legislation; and

WHEREAS, on October 15, 2015, the California Department of Finance (DOF) approved the transfer of the governmental use assets and the future development assets, pursuant to Code sections 34181(a) and 34191.5, from the Successor Agency to the City consistent with the Long Range Property Management Plan, which governs the disposition of the Former RDA's non-housing assets; and

WHEREAS, the San Diego City Attorney has determined that additional legal expertise and personnel are necessary for particular legal matters of the City in the areas of environmental law and hazardous substances liability related to the Former RDA's non-housing assets that have been, or will be, transferred from the Successor Agency to the City related to the Former RDA's rights, obligations, and assets; and

WHEREAS, the law firm of Opper & Varco LLP (Opper & Varco) has provided these services to the Former RDA and the Successor Agency since 2006 pursuant to prior legal services agreements, and has a long history with these entities and their transactions and environmental contamination issues; and


WHEREAS, the City now desires to retain the legal services of Opper & Varco from Fiscal Year 2017 effective through June 30, 2020, under the terms of an "as-needed" agreement with compensation not to exceed \$200,000 payable by the City from the Successor Agency Property Management Fund, designated as Fund No. 200723; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. The City Council authorizes the retention of Opper & Varco as outside counsel for the City on an as-needed basis in the areas of environmental law and hazardous substances liability related to non-housing assets of the Former RDA, that have been, or will be, transferred from the Successor Agency to the City, including any legal assistance deemed necessary in connection with the development of any contaminated sites located adjacent to City-owned property.
2. The Agreement for Legal Services on an As-Needed Basis between the City and Opper & Varco, included as Attachment A to the Executive Summary accompanying this Resolution, is approved.
3. The Chief Financial Officer is authorized and directed to appropriate, encumber and expend an amount not to exceed \$200,000, commencing in Fiscal Year 2017, from the Successor Agency Property Management Fund, designated as Fund No. 200723, to pay for all services provided by Opper & Varco regarding non-housing matters of the Former RDA that have been, or will be, transferred from the Successor Agency to the City in accordance with the Agreement for Legal Services on an As-Needed Basis between the City and Opper & Varco, 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 in Fiscal Year 2017.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Katherine A. Malcolm
Deputy City Attorney

KAM:als
05/03/16
Or.Dept: City Attorney
Doc. No.: 1250045

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 17 2016

ELIZABETH S. MALAND
City Clerk

By Stacy Orndy
Deputy City Clerk

Approved: 5/27/16
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAY 17 2016, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 27 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 Stacy Brady, Deputy

Office of the City Clerk, San Diego, California
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