

RESOLUTION NUMBER R- 310426

DATE OF FINAL PASSAGE MAY 27 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING AN AGREEMENT FOR LEGAL SERVICES WITH GOMEZ TRIAL ATTORNEYS AND BARON & BUDD, P.C. IN CONNECTION WITH CLAIMS RELATED TO PRICE FIXING/ANTITRUST VIOLATIONS ON THE SALES OF FERRIC CHLORIDE, ALUMINUM SULFATE AND OTHER RELATED CHEMICALS BY KEMIRA CHEMICALS, INC. AND OTHER SIMILARLY SITUATED COMPANIES.

WHEREAS, on Tuesday, October 27, 2015, the U.S. Department of Justice announced that former executive Frank Reichl had pleaded guilty to conspiracy to eliminate market competition by fixing prices, rigging bids, and allocating customers for liquid aluminum sulfate supplied to municipalities; and

WHEREAS, Ferric chloride and aluminum sulfate are both chemicals used by municipalities to treat waste and drinking water by aggregating suspended solids prior to filtering; and

WHEREAS, the major companies which sell aluminum sulfate and ferric chloride include California Water Technologies, LLC, Phibro-Tech, Inc., PVS Chemicals, Inc. PVS Technologies, Inc., Kemira Chemicals, Inc. and Hawkins, Inc., and General Chemical Corporation, Reichl's company; and,

WHEREAS, these reported antitrust price-fixing, bid-fixing, and illegal client allocation practices may have artificially and illegally increased the price of ferric chloride, aluminum sulfate and other chemicals purchased by the City of San Diego, causing the City of San Diego to spend more money than it would have under normal market conditions.; and,

WHEREAS, in Closed Session on April 19, 2016, the City Council authorized by unanimous vote, a legal services agreement between the City of San Diego and Gomez Trial Attorneys and Baron & Budd, P.C. [Outside Counsel]; and

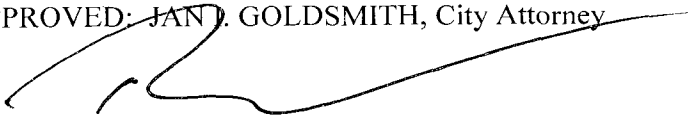
WHEREAS, Outside Counsel seeks a 25% contingency fee from the “gross recovery” as defined in the legal services agreement and will advance costs and deduct those costs from any “gross recovery”; and

WHEREAS, the Office of the San Diego City Attorney will retain complete control over the conduct of the case; will retain a veto power over any decisions made by Outside Counsel; and the Office of the San Diego City Attorney will assign an attorney with supervisory authority to be personally involved in overseeing the litigation; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Mayor or his designee is authorized to execute, for and on behalf of the City, the Agreement for Legal services between the City of San Diego, Gomez Trial Attorneys, and Baron & Budd, P.C. in connection with antitrust and other litigation against Kemira Chemicals, Inc. and any other provider of Ferric Chloride or Aluminum Sulfate to the City of San Diego and any other companies or persons involved in related antitrust activity.

APPROVED: JAN J. GOLDSMITH, City Attorney

By



Paul F. Prather
Deputy City Attorney

PFP:sab
May 3, 2016
Or.Dept: City Attorney
Doc. No.: 1278193

I 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 Chandy
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 Aty Brady, Deputy

Office of the City Clerk, San Diego, California

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