

RESOLUTION NUMBER R- 311249

DATE OF FINAL PASSAGE JUL 25 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AMENDMENT NO. 1 TO THE AGREEMENT FOR LEGAL SERVICES WITH GORDON REES SCULLY MANSUKHANI, LLP., FOR AN AMOUNT NOT TO EXCEED \$75,000; AUTHORIZING AND DIRECTING THE MAYOR TO SIGN THE AGREEMENT; AND AUTHORIZING THE CHIEF FINANCIAL OFFICER TO EXPEND SPECIFIED AMOUNTS UNDER THE AGREEMENT

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; 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 Rees Scully Mansukhani, LLP in certain De Anza Cove Mobilehome Park lawsuits since 2003, and that Gordon Rees Scully Mansukhani, LLP 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 *Aglia*; 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 *Aglia* 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, this Amendment No. 1 to the Agreement for Legal Services ("Agreement"), between the City and Gordon Rees Scully Mansukhani, LLP is for an amount not to exceed \$75,000, 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 Amendment No. 1 to the Agreement and authorizes and directs the Mayor or his designee to sign the Agreement for legal services with Gordon Rees Scully Mansukhani, LLP,

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend an amount up to \$75,000 for the Agreement with Gordon Rees Scully Mansukhani, LLP,

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: MARA W. ELLIOTT, City Attorney


By

  
\_\_\_\_\_  
John Riley  
Chief Deputy City Attorney

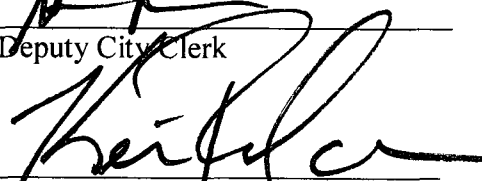
JER:aml  
June 29, 2017  
Dept.: READ  
CC No. 3000010087  
Doc. No.: 1485471

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 18 2017.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 7/24/17  
(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 3000010087  
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: \$75,000.00

Vendor: Gordon Rees Scully Manskhani, LLP

Purpose: Regarding Superior Court of California, County of San Diego, Case No. 37-2016-00042926-CU-CR-CTL.

Date: June 5, 2017

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  |     | \$75,000.00     |
|                 |        |                |                |                  |             |               |             |     |                 |
|                 |        |                |                |                  |             |               |             |     |                 |
|                 |        |                |                |                  |             |               |             |     |                 |
| TOTAL AMOUNT    |        |                |                |                  |             |               |             |     | \$75,000.00     |

FUND OVERRIDE

CC 3000010087

Passed by the Council of The City of San Diego on JUL 18 2017, by the following vote:

| Councilmembers  | Yeas                                | Nays                     | Not Present              | Recused                  |
|-----------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Barbara Bry     | <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"/> |
| Chris Ward      | <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"/> |
| Georgette Gomez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage JUL 25 2017


(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  
Resolution Number R- 311249