

ORDINANCE NUMBER O - 20980

DATE OF FINAL PASSAGE AUG 20 2018

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AMENDMENT NO. 5 TO THE AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND OVERLAND, PACIFIC & CUTLER, LLC, FOR CONSULTING SERVICES.

WHEREAS, the City of San Diego (City) was a named defendant in November 2003 in a lawsuit arising from the closure of a mobile home park on Mission Bay: *De Anza Cove Homeowners Association, et al. v. City of San Diego*, San Diego Superior Court Case No. GIC 821191 (*De Anza Cove HOA* Litigation); and

WHEREAS, the San Diego Superior Court in May 2008 in the *De Anza Cove HOA* Litigation issued a Statement of Decision and Order After Statement of Decision finding, *inter alia*, that the City failed to discharge its mandatory duties under the California Mobilehome Residency Law and ordered the City to prepare a Relocation Impact Report; and

WHEREAS, the City and Overland, Pacific & Cutler, Inc., (now known as Overland, Pacific & Cutler, LLC) entered into an Agreement for Consultant Services in May 2011, which is on file with Office of the City Clerk as Document No. C-15519, to prepare a Tenant Impact Report and Relocation Plan for the residents of the De Anza Cove Mobile Home Park pursuant to the San Diego Superior Court's May 2008 Statement of Decision and Order After Statement of Decision, for a total contract amount not to exceed \$207,000; and

WHEREAS, the City and Overland, Pacific & Cutler, LLC, entered into Amendment No. 1 to the Agreement for Consulting Services between the City and Overland, Pacific & Cutler, LLC, extending the term of the Consultant Agreement for an additional three (3) year period, beginning February 20, 2012, and continuing through February 19, 2015; and

WHEREAS, on December 17, 2014, the San Diego City Council adopted Resolution No. R-309422, authorizing the resolution of the *De Anza Cove HOA* Litigation and to abide by the Amended Judgment dated October 16, 2014; and

WHEREAS, on May 5, 2015, the San Diego City Council adopted Resolution No. R-309614, approving Amendment No. 2 to the Agreement for Consulting Services between the City and Overland, Pacific & Cutler, LLC, which is on file in the Office of the City Clerk as RR-309614, extending the term of the Consultant Agreement through May 20, 2016, expanding the scope of work to include payment of claims to De Anza Cove mobilehome park residents, and increasing the amount of the Consultant Agreement by \$591,000; and

WHEREAS, on December 18, 2015, the San Diego City Council adopted Resolution No. R-310173 approving settlement in *Aglío, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2009-00081994-CU-EI-CTL (*Aglío* Litigation), a companion lawsuit to the *De Anza Cove HOA* Litigation and approving Amendment No. 3 to the Agreement for Consulting Services between the City and Overland, Pacific & Cutler, LLC, which is on file in the Office of the City Clerk as RR-310173-2. Amendment No. 3 expanded the scope of work under the Consultant Agreement to include updating the Relocation Impact Report as well as the administration and payment of claims from the *Aglío* Litigation, in an amount not to exceed \$395,250; and

WHEREAS, on September 15, 2017, the San Diego City Council adopted Ordinance No. O-20852, approving Amendment No. 4 to the Agreement for Consulting Services between the City and Overland, Pacific & Cutler, LLC, which is on file in the Office of the City Clerk as OO-20852, extending the term of the Consultant Agreement through December 31, 2017; and

WHEREAS, Over, Pacific & Cutler, LLC, has received an additional \$383,782.42 from the City's insurers for services related to the Consultant Agreement; and

WHEREAS, additional services and monies are required under the Consultant Agreement between the City and Overland, Pacific & Cutler, LLC, on both the *De Anza Cove HOA* Litigation and *Aglio* Litigation matters; and

WHEREAS, under San Diego Charter section 99, no contract, agreement or obligation extending for a period of more than five (5) years may be authorized except by ordinance adopted by a two-thirds' majority of the City Council; and NOW THEREFORE,

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

Section 1. That the Mayor or his designee is authorized to execute Amendment No. 5 to the Agreement for Consulting Services between the City and Overland, Pacific & Cutler, LLC, which is on file in the Office of the City Clerk as 00-20980, extending the Consultant Agreement through December 31, 2019, and increasing the amount of the Consultant Agreement to be paid by the City to \$808,000 for the *De Anza Cove HOA* Litigation and \$456,250 for the *Aglio* Litigation.

Section 2. That the Chief Financial Officer is authorized to appropriate and expend an amount not to exceed an additional \$10,000.00 in total payments in the *De Anza Cove HOA* Litigation and \$61,000.00 in the *Aglio* Litigation to Overland, Pacific & Cutler, LLC, from the Public Liability Fund No. 720045, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for these expenditures are, or will be, on deposit with the City Treasurer.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the City Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
David J. Karlin
Senior Chief Deputy City Attorney

DJK:aml
June 1, 2018
Or. Dept: READ
Doc. No.: 1673981

I certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of AUG 07 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 8/20/18
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on AUG 07 2018, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 AUG 20 2018

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 [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUL 24 2018, and on AUG 20 2018

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

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

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 20980