

ORDINANCE NUMBER O - 21022

DATE OF FINAL PASSAGE DEC 05 2018

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AMENDMENT NO. 5 TO THE AGREEMENT FOR LEGAL SERVICES BETWEEN THE CITY OF SAN DIEGO AND PROCOPIO, CORY, HARGREAVES & SAVITCH LLP.

WHEREAS, the City of San Diego (City) is a named defendant or cross-defendant in cases related to the closure of a mobile home park on 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 Cove HOA*); *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*); *Scottsdale Insurance Co. v. Everest Indemnity Insurance Co., et al.*, San Diego Superior Court Case No. 37-2012-00094815-CU-IC-CTL (referred to as the *Columbia Casualty* matter); and *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, on May 16, 2013, the San Diego City Council adopted Resolution No. R-308127, authorizing the Mayor, or his designee, to enter into an agreement for legal services with the law firm of Procopio, Cory, Hargreaves & Savitch LLP (Procopio) to represent and counsel the City in the *De Anza Cove HOA*, *Aglio*, *Scottsdale*, and *Lloyd's* litigation matters, as well as to pursue an excess insurance coverage claim with the California State Association of Counties (CSAC), in an amount not to exceed \$250,000; and

WHEREAS, on July 10, 2015, the San Diego City Council adopted Resolution No. R-309799, approving an amendment to the agreement for legal services with Procopio in an amount not to exceed \$400,000 and adding the *Lloyd's* and *Columbia Casualty* litigation matters to the scope of services; and

WHEREAS, on May 4, 2016, the San Diego City Council adopted Resolution No. R-310385, approving a second amendment to the agreement for legal services with Procopio in an amount not to exceed \$475,000 and adding the *St. Jon* litigation matter to the scope of services; and

WHEREAS, on December 16, 2016, the San Diego City Council adopted Resolution No. R-310819, approving a third amendment to the agreement for legal services with Procopio in an amount not to exceed \$475,000; and

WHEREAS, on July 26, 2017, the San Diego City Council adopted Resolution No. R-311248, approving a fourth amendment to the agreement for legal services with Procopio in an amount not to exceed \$490,000; and

WHEREAS, the City desires to continue to utilize Procopio's legal services in relation to the closure of the mobile home park on Mission Bay; and

WHEREAS, Procopio possesses the specialized knowledge and experience, beyond that available in the Office of the City Attorney, that is necessary to provide insurance coverage analysis and representation; and

WHEREAS, there are outstanding final invoices in the amount of \$38,068.36 in the *Columbia Casualty* and \$19,657.87 in the *St. Jon* litigation matters; and

WHEREAS, additional monies and services are required in the *Lloyd's* litigation matter and the *CSAC* excess insurance coverage claim; 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 between the City of San Diego and Procopio, Cory, Hargreaves & Savitch LLP for Legal Services regarding Insurance Coverage Representation and Counseling in the *De Anza Cove Mobile Home Park* Litigation Matters, which is on file with the Office of the City Clerk as Document No. OO- 21022, and authorizing the following:


- (a.) An additional \$38,068.36 for Procopio, Cory, Hargreaves & Savitch LLP to provide insurance coverage representation regarding the *Columbia Casualty* litigation matter;
- (b.) An additional \$19,657.87 for Procopio, Cory, Hargreaves & Savitch LLP to provide insurance coverage representation regarding the *St. Jon* litigation matter;
- (c.) An additional \$190,000 for Procopio, Cory, Hargreaves & Savitch LLP to provide insurance coverage representation regarding the *CSAC* excess insurance coverage claim; and
- (d.) An additional \$568,165.27 for Procopio, Cory, Hargreaves & Savitch LLP to provide insurance coverage representation regarding the *Lloyd's* litigation matter.

Section 2. That the Chief Financial Officer is authorized to appropriate and expend an amount not to exceed \$815,891.50 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
September 21, 2018
Or. Dept: READ
Doc. No.: 1819334

I certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of DEC 04 2018.

ELIZABETH S. MALAND
City Clerk

By  _____
Deputy City Clerk

Approved: 12/5/18
_____ (date)

 _____
KEVIN L. FAULCONER, Mayor

Vetoed: _____
_____ (date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on DEC 04 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 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 DEC 05 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 Connie Patterson, 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

NOV 13 2018, and on DEC 05 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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>21022</u>