

RESOLUTION NUMBER R- 311524

DATE OF FINAL PASSAGE FEB 05 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AMENDMENT NO. 2 TO THE AGREEMENT FOR LEGAL SERVICES WITH GORDON REES SCULLY MANSUKHANI, LLP., FOR AN AMOUNT NOT TO EXCEED \$150,000; 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, *Aglío, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2009-00081994-CU-EI-CTL (“Aglío”), 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 *Aglio*; 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 *Aglio* 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. 2 to the Agreement for Legal Services ("Agreement"), between the City and Gordon Rees Scully Mansukhani, LLP is for an amount not to exceed \$150,000, 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. 2 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 \$150,000 for Amendment No. 2 to 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  _____
David J. Karlin
Senior Chief Deputy City Attorney

DKJ:aml
January 12, 2018
Dept.: READ
CC No. 30000010641
Doc. No.: 1666153

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 30 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 2/5/18
(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 3000010641
 DEPT. NO. 1211

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: _____ Fund: _____

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: _____ \$150,000.00

Vendor: Gordon Rees Scully Mansukhani, LLP

Purpose: Authorizing the expenditure of funds for Amendment No. 2 to the agreement for legal services in connection with the De Anza Cove Mobile Home Park litigation.

Date: January 5, 2018 By: Lina Chlm 

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		\$150,000.00
TOTAL AMOUNT									\$150,000.00

FUND OVERRIDE

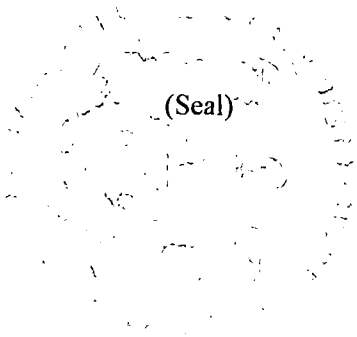
Passed by the Council of The City of San Diego on JAN 30 2018, by the following vote:

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 FEB 05 2018

(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.

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 311524