



DATE ISSUED: October 19, 2005 REPORT NO. CCDC-05-40

ATTENTION: Chair and Members of the Redevelopment Agency  
Docket of November 15, 2005

SUBJECT: Approval of the Fifth Amendment to the Agreement for Legal Services  
between the Redevelopment Agency of the City of San Diego and  
Kane, Ballmer & Berkman - Centre City Redevelopment Project

REFERENCE: Approval of FY 05-06 Budget for the Redevelopment Agency of the  
City of San Diego - June 14, 2005

STAFF CONTACT: Peter J. Hall, President - CCDC  
Carolyn Y. Smith, President - SEDC

## **SUMMARY**

Issue - Should the Redevelopment Agency approve the proposed Fifth Amendment between the Redevelopment Agency of the City of San Diego and Kane, Ballmer & Berkman ("KBB") for Legal Services?

Staff Recommendation - That the Redevelopment Agency of the City of San Diego (Agency) approve the Fifth Amendment to the Agreement for Legal Services by and between the Agency and KBB, Special Agency Counsel for \$200,000 for the Southeastern Economic Development Corporation related work and \$250,000 for Centre City Development Corporation related work for a total Agency contract amount not to exceed \$2,972,860.

Centre City Development Corporation Recommendation - On September 21, 2005, the Corporation Board of Directors voted unanimously to recommend approval of the Fifth Amendment.

Southeastern Economic Development Corporation Recommendation - On September 29, 2005, the Corporation Board of Directors voted unanimously to recommend approval of the Fifth Amendment.

Centre City Advisory Committee (CCAC) Recommendation - None.

Other Recommendations - None.

Fiscal Impact - The funding for this Fifth Amendment was approved as a part of the Southeastern Economic Development Corporation's (SEDC) FY 05-06 budget and funds are available in the FY 05-06 Centre City and Horton Plaza Redevelopment Projects Budgets for legal services.

## BACKGROUND

On December 3, 2001, the Agency authorized the Executive Director to execute a three year Agreement with KBB, Special Agency Counsel, for the provision of legal services to the Agency and its corporations for a total amount not to exceed \$1,500,000 (Agreement). The contract was allocated as follows: \$750,000 for the Centre City Development Corporation (CCDC), \$525,000 for the SEDC and \$250,000 for the Agency.

There have been three amendments to the original contract which included SEDC.

On September 2, 2003, the First Amendment to the Agreement was approved by the Agency for SEDC redevelopment project areas, on September 14, 2004, the Second Amendment to the Agreement was approved by the Agency for \$160,000 for SEDC redevelopment projects, and on June 21, 2005, the Agency approved the Third Amendment for \$60,000 for SEDC redevelopment project areas.

## DISCUSSION

The City Attorney's Office has issued a new Request for Qualifications ("RFQ") for special legal counsel services for the next three year period, however, the process has not been completed and the matter put on hold by the City Attorney's Office. In order to have special legal counsel services available, it is necessary to further amend the Agreement with KBB.

The following provides a summary of the financial status of the Agreement for CCDC related legal work:

Original Agreement (Corporation Share - December 2001)	\$750,000
First Year Funding	250,000
Second Year Funding	350,000
Third Year Funding	150,000
Third Amendment (June 2005)	150,000
Paid to Date	(844,903)
Proposed Amendment	<u>250,000</u>
Amount Available Subsequent to the Proposed Amendment	<u>\$305,097</u>

Upon approval of SEDC's portion of the proposed Fifth Amendment, the total contract amount for SEDC related work is \$1,057,860. The Fifth Amendment will allow SEDC to continue its redevelopment program utilizing the proven legal/redevelopment expertise of KBB. SEDC's four redevelopment project areas; Central, Imperial, Mount Hope, Southcrest and Gateway Center West have a number of projects underway. Some of the projects include the 2,200 residential units planned in Central Imperial, the 110 town homes in Southcrest, the development of Market Street Corridor in Mount Hope and the Valencia Business Park.

Likewise, this proposed Fifth Amendment will permit the Corporation to continue work on the Diamond View Tower Project, Ballpark Village, The Legend, Sunburst Apartment's, Salvation Army and 14<sup>th</sup>, 15<sup>th</sup>, and J Street Project.

The Scope of Services includes legal assistance in the negotiation and preparation of development agreements, assistance with redevelopment plan adoptions and amendments, consultation on significant redevelopment matters and coordination with the City Attorney's office.

CONSULTANT FIRM

ROLE/FIRM	CONTACT	OWNED BY (Privately Owned)
<b>Special Legal Counsel</b> <b>Kane Ballmer &amp; Berkman</b>	Murray Kane Glenn Wasserman Royce K. Jones	Murray Kane, Partner Glenn Wasserman, Partner Royce K. Jones, Partner Joseph W. Pannone, Partner Stephanie R. Scher, Partner June S. Ailin, Partner Susan Apy, Partner (Privately Owned)

There are no subconsultants associated with this Agreement.

EQUAL OPPORTUNITY

This action increases the funding for the third year of the Agreement, therefore no equal opportunity outreach was done. KBB was selected after participating in a RFQ process. KBB is not certified as a M/W/D/DVBE firm.

KBB submitted a Work Force Report on January 20, 2004, which indicates a total of 27 employees in their Los Angeles office, of which 15 are female, and 13 are members of an under-represented ethnic group.

- (2) African American Males
- (4) African American Females
- (2) Latinos
- (3) Latinas
- (1) Asian Female
- (1) American Indian Male

Per the City of San Diego, the Latino and Women categories reflects under-representations. However, the overall categories exceeds the goals, which would preclude the submission of an Equal Employment Opportunity Plan.

#### SUMMARY/CONCLUSION

This Fifth Amendment will allow SEDC and CCDC to continue implementation of redevelopment work for the balance of this fiscal year. There is no conflict of interest known to us regarding any Agency or Corporation officer or employee regarding this Agreement.

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Approved: Carolyn Y. Smith,  
President

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Approved: Peter J. Hall,  
President

Attachment(s): Fifth Amendment to the Agreement with Kane, Ballmer & Berkman

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