

RESOLUTION NO. 2014 – 11

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AUTHORIZING THE CHAIRMAN OF THE SUCCESSOR AGENCY
TO EXECUTE A SIXTH AMENDMENT TO THE AGREEMENT FOR LEGAL SERVICES BY
BEST BEST & KRIEGER, LLP, FOR THE DEFENSE IN THE CYAC
LEGAL CHALLENGE TO INCREASE THE NOT TO EXCEED
AMOUNT BY \$225,000, FOR A TOTAL AMOUNT OF \$737,500

WHEREAS, on November 23, 2010, the City of National City ("City"), the Community Development Commission as the National City Redevelopment Agency ("CDC") adopted Resolution No. 2010-265 approving an Agreement between the City, the CDC, and Best Best & Krieger, LLP ("BB&K"), to provide legal defense services to the City and CDC regarding the Community Youth Athletic Center ("CYAC") litigation in the not to exceed amount of \$160,000 ("Agreement"); and

WHEREAS, pursuant to Assembly Bill 26 as amended in Assembly Bill 1484, all redevelopment agencies in the State of California were dissolved as of February 1, 2012, and upon dissolution of the CDC, the City assumed the role of Successor Agency to the CDC ("Successor Agency"); and

WHEREAS, on October 18, 2011, the CDC adopted Resolution No. 2011-233 approving the First Amendment to the Agreement that increased the not to exceed amount by \$134,000, bringing the total not to exceed amount to \$294,000; and

WHEREAS, on May 15, 2012, the Successor Agency adopted Resolution No. 2011-10 authorizing the Second Amendment to the Agreement in the amount of \$70,000 for the on-going appeal process in the CYAC litigation, for a total not-to-exceed amount of \$364,000; and

WHEREAS, on October 30, 2012, the Successor Agency adopted Resolution No. 2012-25 authorizing the Third Amendment to the Agreement in the amount of \$45,000 for the on-going appeal process, for a total not-to-exceed amount of \$409,000; and

WHEREAS, on September 17, 2014, the Successor Agency adopted Resolution No. 2013-38 authorizing the Fourth Amendment to the Agreement in the amount of \$53,500 for the on-going appeal process, for a total not-to-exceed amount of \$462,500; and

WHEREAS, on February 18, 2014, the Successor Agency adopted Resolution No. 2014-42 authorizing the Fifth Amendment to the Agreement in the amount of \$100,000 for the on-going appeal process, for a total not-to-exceed amount of \$562,500; and

WHEREAS, the CYAC litigation remains on-going as it has been remanded to the trial court for further proceedings after appeal, which has necessitated the retention of experts, the detailed review of seven years' worth of legal bills involving entries by over twenty attorneys on petitioners' side, and the trial court has requested additional briefing regarding petitioners' request for approximately \$2,400,000 in attorneys' fees, thus additional funding for continued legal representation remains necessary; and

WHEREAS, BB&K and the Successor Agency desire to amend the Agreement, *via* this Sixth Amendment to the Agreement in the amount of \$225,000, an amount that they

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jointly deem necessary for the ongoing CYAC litigation, which will bring the total not-to-exceed amount to \$787,500; and

WHEREAS, this Sixth Amendment requires the approval of the Oversight Board of the Successor Agency ("Oversight Board"), and the California Department of Finance prior to being effective.

WHEREAS, the Oversight Board, at its regular meeting taking place on November 19, 2014 considered the authorization of the Successor Agency's Chairman to execute the Sixth Amendment ("Authorization"), said Authorization having been approved by the Successor Agency on November 18, 2014, and recommended for Oversight Board approval by staff, along with all evidence presented, both in favor and against the Authorization, if any; and

WHEREAS, approval of this Authorization is not a "Project" under section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because the proposed action consists of administrative activity that will not result in direct or indirect physical changes to the environment and, as such, pursuant to section 15061(b)(3) of the CEQA Guidelines is not subject to CEQA.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency as follows:

SECTION 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. The Oversight Board hereby authorizes the Chairman of the Successor Agency to execute the Sixth Amendment to the Agreement with Best Best & Krieger, LLP ("BB&K"), to increase the not to exceed amount by \$225,000, which will bring the total not-to-exceed amount to \$787,500, to cover legal services for the ongoing Community Youth Athletic Center ("CYAC") litigation. The Sixth Amendment to the Agreement is on file in the office of the City Clerk.

SECTION 3. A true, correct and complete copy of the Sixth Amendment shall be maintained on file in the office of the City Clerk.

SECTION 4. Pursuant to Health and Safety Code Section 34179(h), all Oversight Board actions may be reviewed by the Department of Finance; therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State Department of Finance.

SECTION 5. The Oversight Board Secretary and/or Successor Agency Secretary shall certify to the adoption of this Resolution.

PASSED and ADOPTED this 19th day of November, 2014.

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NOW, THEREFORE, BE IT RESOLVED that the foregoing Resolution was duly and regularly adopted at a regular meeting of the Oversight Board for the Successor Agency to the Community Development Commission as the National City Redevelopment Agency held on the 19th day of November 2014, by the following vote:

AYES:

NOES:


ABSENT:

ABSTAIN:




Ron Morrison, Chairman

ATTEST:



Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:



Oversight Board Counsel
Edward Z. Kotkin, Esq.
Law Offices of Edward Z. Kotkin

**SIXTH AMENDMENT TO AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY,
THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY,
AND
BEST BEST & KRIEGER, LLP**

This Sixth Amendment to Agreement is entered into this 21st day of November, 2014, by and between THE CITY OF NATIONAL CITY, a municipal corporation, (the "CITY"), THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY, a public body, corporate and politic, (the "SUCCESSOR AGENCY"), and BEST BEST & KRIEGER, LLP, (the "FIRM").

RECITALS

- A. The CITY, the SUCCESSOR AGENCY and the FIRM (the "Parties") entered into an agreement on October 9, 2010, ("the Agreement") wherein the FIRM agreed to provide legal services in the defense of the case entitled *Community Youth Athletic Association v. All Persons Interested in the Matter of the Amendment to National City's Redevelopment Plan as Adopted by Ordinance 2007-2295*, Case No. 37-2007-00076404-CU-EI-CTL, in the amount of \$160,000, and subject to the terms of the Agreement.
- B. The Parties entered into the First Amendment to the Agreement on October 18, 2011, (the "First Amendment") to increase the not-to-exceed amount of the Agreement by \$134,000, for a total Agreement not-to-exceed amount of \$294,000.
- C. The Parties entered into a Second Amendment on May 15, 2012 to increase the not-to-exceed amount by \$70,000 for a total not-to-exceed amount of \$364,000.
- D. The Parties entered into a Third Amendment on October 30, 2012 to increase the not-to-exceed amount of the Agreement by \$45,000 for a total not-to-exceed amount of \$409,000.
- E. The Parties entered into a Fourth Amendment on September 3, 2013 to increase the not-to-exceed amount of the Agreement by \$53,500 for a total not-to-exceed amount of \$462,500.
- F. The Parties entered into a Fifth Amendment on February 18, 2014 to increase the not-to-exceed amount of the Agreement by \$100,000 for a total not-to-exceed amount of \$562,500.
- G. The Parties desire to amend the Agreement to increase the not-to-exceed amount of the Agreement by \$225,000 for a total not-to-exceed amount of \$787,500.
- H. The case remains on-going as it has been remanded to the trial court for further proceedings after appeal, which has necessitated the retention of experts, the detailed review of seven years' worth of legal bills involving entries by over twenty attorneys on petitioners' side, and the trial court has requested additional briefing regarding petitioners' request for approximately \$2,400,000 in attorneys' fees, thus additional funding for continued legal representation remains necessary.

- I. On February 1, 2012, all California redevelopment agencies were dissolved, successor agencies were established as successor agencies to the former redevelopment agencies pursuant to Health and Safety Code Section 34173, and successor agencies are tasked with paying, performing, and enforcing the enforceable obligations of the former redevelopment agencies.
- J. This Sixth Amendment will require the approval of the Oversight Board to the Successor Agency and the California Department of Finance prior to being effective.

NOW, THEREFORE, the Parties agree that the Agreement entered into on October 9, 2010, and amended on October 18, 2011, May 15, 2012, October 30, 2012, September 3, 2013, and February 18, 2014 shall be amended by amending Article 3 (Compensation), Section C of the Agreement by increasing the not-to-exceed amount by \$225,000 for a total not-to-exceed amount of \$787,500.


The parties further agree that with the foregoing exception, each and every term and provision of the Agreement dated October 9, 2010, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to the Agreement on the date and year first above written.

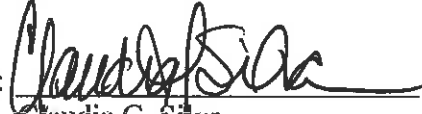
**SUCCESSOR AGENCY TO THE COMMUNITY
DEVELOPMENT COMMISSION AS THE
NATIONAL CITY REDEVELOPMENT AGENCY**

BEST, BEST, & KRIEGER, LLP

By: 
Ron Morrison, Chairman

By: 
Bruce Beach, Esq.

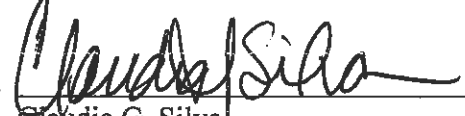
APPROVED AS TO FORM:

By: 
Claudia G. Silva
Successor Agency Counsel

CITY OF NATIONAL CITY

By: 
Ron Morrison, Mayor

APPROVED AS TO FORM:

By: 
Claudia G. Silva
City Attorney