

RESOLUTION NO. 2014 – 02

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
AUTHORIZING THE CHAIRMAN TO EXECUTE A FOURTH AMENDMENT
TO THE AGREEMENT FOR LEGAL SERVICES
BY BEST BEST & KRIEGER, LLP, FOR THE CYAC LEGAL
CHALLENGE DEFENSE TO INCREASE THE NOT TO EXCEED
AMOUNT BY \$100,000 FOR A TOTAL AMOUNT OF \$462,500

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

WHEREAS, on October 18, 2011, the CDC (now the Successor Agency) 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, 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 25, 2013, Successor Agency adopted Resolution 2013-07 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 to \$462,500; and

WHEREAS, a Fifth Amendment to the Agreement in the amount of \$100,000 is necessary for the final process of the appeal, which will bring the total not-to-exceed amount to \$562,500; and,

WHEREAS, the Fifth Amendment must also be approved by the Oversight Board to the Successor Agency prior to being effective; and

WHEREAS, on February 19, 2014, in the course of taking action on an properly agendized item at a regular meeting, the Oversight Board considered the approval of the Fifth Amendment, and upon *(i)* further consideration of all information and documentation presented by staff, *(ii)* all public comment and Oversight Board deliberation, if any, and *(iii)* the recommendation of the Successor Agency's staff, did independently find and determine that the Fourth Amendment should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency hereby OB

Resolution No. 2014- 02
February 19, 2014
Page Two

authorizes the Chairman to execute the Fifth Amendment to the Agreement with Best

Best & Krieger, LLP ("BB&K"), to increase the not to exceed amount by \$100,000, which will bring the total not-to-exceed amount to \$562,500, to cover legal services for the appeal regarding the Community Youth Athletic Center ("CYAC") litigation. Said Fifth Amendment to the Agreement is on file in the office of the City Clerk.

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 February, 2014, by the following vote:

AYES: Carson, Fellows, Desrochers, Morrison, Perri, Hentschke

NOES: None

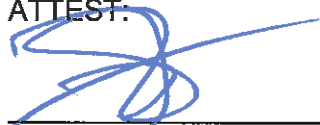
ABSENT: Donaldson

ABSTAIN: None



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, Esq

**FIFTH 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 Fifth Amendment to Agreement is entered into this 18th day of February, 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 desire to amend the Agreement 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 case remains on-going as it has been remanded to the trial court for further proceedings after appeal, and CYAC has petitioned for review to the California Supreme Court, thus continued legal representation remains necessary.
- H. 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.

- I. This Fourth 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, and September 3, 2013, shall be amended by amending Article 3 (Compensation), Section C of the Agreement by increasing the not-to-exceed amount by \$100,000 for a total not-to-exceed amount of \$562,500.

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.

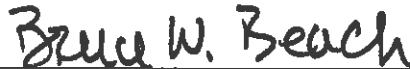
IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to the Agreement on the date and year first above written.

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

By: 

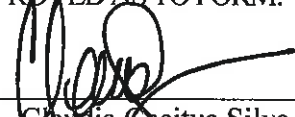
Ron Morrison, Chairman

BEST, BEST, & KRIEGER, LLP

By: 

Bruce Beach, Esq.

APPROVED AS TO FORM:

By: 

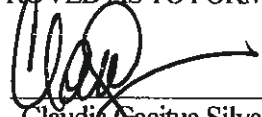
Claudia Gacitua Silva
Successor Agency Counsel

CITY OF NATIONAL CITY

By: 

Ron Morrison, Mayor

APPROVED AS TO FORM:

By: 

Claudia Gacitua Silva
City Attorney