

RESOLUTION NO. 2008-258

Adopted by the Sacramento City Council

May 6, 2008

RATIFYING AMOUNTS INCURRED UNDER CITY AGREEMENT NO. 2007-0579 WITH MILLER, OWEN & TROST FOR LEGAL SERVICES, APPROVING THE FIRST AMENDMENT TO CITY AGREEMENT NO. 2007-0579, AND SUPPLEMENT NO. 2 TO CITY AGREEMENT NO. 2007-0199 WITH NATIONAL VALUATION CONSULTANTS FOR THE INTERMODAL SITE ACQUISITION PROJECT (PN: T5029001)

BACKGROUND

- A. The City Attorney approved an Agreement for Legal Services, City Agreement No. 2007-0579 with Miller, Owen & Trost in the amount of \$50,000 for attorneys' fees and direct costs only ("Trost Agreement").
- B. The amounts incurred under the Trost Agreement through December 31, 2007 totaled \$111,211.54, including \$109,910.504 in attorneys' fees and \$1,301.04 in direct costs. In addition, the Trost firm retained consultants approved by the City Attorney and incurred charges totaling \$75,442.27 retained consultants. Of this amount, the sum of \$50,000 previously was paid pursuant to the initial authority under the Trost Agreement, to be applied against professional fees and direct costs, leaving an unpaid balance of all amounts of \$136,653.81.
- C. There is a need to continue the services of and increase the scope of services of Miller, Owen & Trost and to increase the authorized amount of the Trost Agreement over the amounts incurred through March 31, 2008 to \$400,000 by way of a First Amendment of Agreement for Legal Services.
- D. The City Manager approved a Consultant Services Agreement, City Agreement No. 2007-0199 with National Valuation Consultants, Inc. ("NVC") in the amount of \$80,500 ("NVC Agreement").
- E. The City Manager subsequently approved the Supplemental Agreement No. 1 of the NVC Agreement, City Agreement No. 2007-0199-1, increasing the amount of the NVC Agreement to \$98,552.97. NVC has been paid this amount for services rendered under the contract.
- F. The NVC Agreement also has been modified by an additional supplemental agreement as follows: Supplemental Agreement No. 2 increases the authorized amount of the NVC Agreement by \$60,000 bringing the authorized amount under the NVC Agreement to \$158,552.97 and extends the performance time under the NVC Agreement to December 31, 2008. NVC has continued to work on its appraisal at City's request and has incurred charges totaling \$119,552.97 through March 31, 2008.

It has been paid the sum of \$98,552.97, leaving a current outstanding balance of \$20,500. There is a need to continue the services of National Valuation Consultants, Inc. and staff sought the ratification of Supplemental Agreement No. 2, to allow NVC to complete its work.

- G. The services provided by Miller, Owen & Trost and NVC are in support of acquisition of Depot property relating to the Intermodal Site Acquisition Project (PN: T15029001). A transfer of funds in the amount of \$905,000. (Fund 2023) from the Sacramento Intermodal Transportation Facility Project (PN: T15029000) is necessary to cover the costs of the items approved pursuant to this Resolution, plus the costs of consultants and experts if needed in the valuation process in an amount not to exceed \$120,000.
- H. The amendatory agreements described above came before City Council for approval as a result of the increases in contract amounts under the Trost Agreement and the NVC Agreement, and Council-approval of such agreements is required.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The FY2007/2008 Capital Improvement Program revenue and expenditure budgets are amended to reflect the transfer of \$905,000 (Fund 2023) from the Sacramento Intermodal Transportation Facility Project (PN: T15029000) to the Intermodal Site Acquisition Project (PN: T15029001)
- Section 2 The unpaid amount of attorney's fees and direct costs incurred under the Trost Agreement through March 31, 2008 in the sum of \$61,211.54 is ratified and staff is authorized to pay the unpaid portion said amount to Miller, Owen & Trost.
- Section 3. The costs of consultants retained by the Trost firm at the request and approval of the City Attorney, in the sum of \$75,442.27, is approved and staff is authorized to pay said amount to the Trost firm as reimbursement for said costs.
- Section 4. The City Attorney is authorized to execute the First Amendment to the Trost Agreement, City Agreement No. 2007-0579, that increases the not-to-exceed amount of the contract by \$400,000.00 for attorney's fees and direct costs.
- Section 5. The City Manager is authorized to execute Supplemental Agreement No. 2 to the NVC Agreement, City Agreement No. 2007-0199, which brings the authorized amount under the contract to an amount not to exceed \$158,552.97.
- Section 6. The unpaid amount of fees and costs for services rendered by National Valuation Consultants under City Agreement No. 2007-0199, in the sum of

\$20,500 is ratified and staff is authorized and to pay said sum to National Valuation Consultants.

Adopted by the City of Sacramento City Council on May 6, 2008 by the following vote:

Ayes: Councilmembers , Fong, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: Councilmembers Cohn, and Hammond.



Mayor Heather Fargo

Attest:



Shirley Concolino, City Clerk