

Meeting Date:

Agenda Item

June 28, 2016

6

REQUESTED COMMISSION ACTION:

<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Resolution	<input type="checkbox"/> Consideration/ Discussion	<input type="checkbox"/> Presentation
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SHORT TITLE

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN ASSIGNMENT OF RIGHTS FROM THE CITY OF POMPANO BEACH TO CALVIN, GIORDANO & ASSOCIATES, INC.; PROVIDING AN EFFECTIVE DATE.

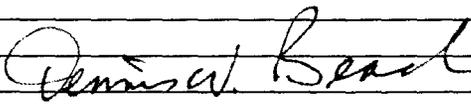
Summary of Purpose and Why:

The City of Pompano Beach received a favorable Judgment for Attorney's Fees in the proceeding styled *Robert Gross and Dan-Taylor-Alex, LLC. v. City of Pompano Beach, Mario Sotolongo; Shenoa Dancy, Dennis Beach, Kim Briesemeister and Chris Brown* (in their official and individual capacities), USDC No. 0:15-cv-60648-UU. Calvin, Giordano & Associates, Inc. indemnified the city for litigation fees and costs associated with the lawsuit and thus expended all fees and costs in the city's defense of the litigation. Therefore, the city should agree to assign all its rights against the Plaintiffs in Calvin, Giordano's enforcement action on the judgments for attorney's fees for them to be able to recover the monies they spent in defense of the city in the case.

- (1) Origin of request for this action: Calvin, Giordano & Associates, Inc.
- (2) Primary staff contact: Mark E. Berman, City Attorney Ext. 4614
- (3) Expiration of contract, if applicable: _____
- (4) Fiscal impact and source of funding: _____

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
City Attorney	6/16/16		See City Attorney's Comm. #2016-925
_____	_____	_____	_____
_____	_____	_____	_____


 City Manager



ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	Workshop
1 st Reading	1 st Reading	Results:	Results:
_____	_____	_____	_____
2 nd Reading	_____	_____	_____
_____	_____	_____	_____



City Attorney's Communication #2016-925

June 16, 2016

TO: Dennis W. Beach, City Manager
FROM: Mark E. Berman, City Attorney
RE: Resolution – Assignment of Rights

Attached please find the following captioned Resolution addressing the above-referenced matter:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN ASSIGNMENT OF RIGHTS FROM THE CITY OF POMPANO BEACH TO CALVIN, GIORDANO & ASSOCIATES, INC.; PROVIDING AN EFFECTIVE DATE.

Please place this matter on the June 28, 2016 City Commission Agenda. I have attached a Commission Agenda Cover Sheet for your convenience.

Should you have any questions regarding this matter, please feel free to contact me.


MARK E. BERMAN

MEB/jrm
l:cor/manager/2016-925

Attachments

RESOLUTION NO. 2016- _____

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN ASSIGNMENT OF RIGHTS FROM THE CITY OF POMPANO BEACH TO CALVIN, GIORDANO & ASSOCIATES, INC.; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:+

SECTION 1. That an Assignment of Rights from the City of Pompano Beach to Calvin, Giordano & Associates, Inc., relating to the Judgment for Attorney Fees in Favor of Defendant, City of Pompano Beach, in the United States District Court of the Southern District of Florida proceeding styled *Robert Gross, et al. v. City of Pompano Beach, et al.*, copy of which Assignment is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Assignment from the City of Pompano Beach to Calvin, Giordano & Associates, Inc.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2016.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

ASSIGNMENT OF RIGHTS

This assignment is made and entered on this ___ day of June 2016, by and between the CITY OF POMPANO BEACH (“CITY”) and CALVIN, GIORDANO & ASSOCIATES, INC. (“CGA”).

WHEREAS CITY received a Judgment for Attorney Fees in Favor of Defendant City of Pompano Beach in the United States District Court of the Southern District of Florida proceeding styled ROBERT GROSS et al. v. CITY OF POMPANO BEACH et al.

WHEREAS by and through its contract CGA had indemnified and held CITY harmless and has expended all fees and costs in CITY’s defense in the aforementioned litigation.

WHEREAS CITY agreed to assign and all of its rights against ROBERT GROSS and DAN TAYLOR ALEX, LLC to CGA and,

WHEREAS CGA agrees to accept the assignment from CITY of any and all of CITY’s rights against ROBERT GROSS and DAN TAYLOR ALEX, LLC.

THEREFORE, for and in consideration of \$10.00 and other good valuable consideration expressed herein, the receipt and legal sufficiency of which is hereby mutually acknowledged, CITY and CGA agree that CITY is assigning any and all of its rights against ROBERT GROSS and DAN TAYLOR ALEX, LLC to CGA, and CGA is accepting said Assignment, with the understanding that CGA intends to seek ROBERT GROSS and DAN TAYLOR ALEX, LLC for damages caused to CGA due to CGA having to retain an attorney to defend against the lawsuit in the United States District Court of the Southern District of Florida styled ROBERT GROSS et al. v. DENNIS BEACH et al. It is specifically understood that CGA indemnified CITY for the litigation fees and costs associated with the lawsuit.

CITY, as assignor, does hereby assign to CGA, as assignee, any and all of its rights, title and interests in and to any of CITY’s claims against ROBERT GROSS and DAN TAYLOR ALEX, LLC and CGA accepts this Assignment.

This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Assignment shall be construed in accordance with the laws of the State of Florida and those laws shall prevail in the event of any conflict of laws. It is the intention of this Assignment for CGA to stand in the shoes of CITY.

In witness whereof the undersigned do hereby execute and deliver this Assignment as of the date written above.

Witnesses:

CITY OF POMPANO BEACH

By: _____
LAMAR FISHER, MAYOR

By: _____
DENNIS W. BEACH, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved by:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number