

RESOLUTION NUMBER R- 313040

DATE OF FINAL PASSAGE MAY 21 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH THE LAW FIRM OF KANE, BALLMER & BERKMAN AS OUTSIDE COUNSEL TO PROVIDE CONTINUED LEGAL SERVICES RELATED TO THE CITY'S SALE OF THE MISSION VALLEY STADIUM SITE TO SAN DIEGO STATE UNIVERSITY.

WHEREAS, in November 2018, local voters approved Measure G, the San Diego State University (SDSU) West citizens' initiative, the main substance of which is now codified in San Diego Municipal Code section 22.0908; and

WHEREAS, Measure G contemplates that the City of San Diego (City) and SDSU will negotiate a purchase and sale agreement (PSA), as well as other necessary agreements and documents, related to the City's sale to SDSU of the Mission Valley Stadium Site (Site) and SDSU's future development of the Site (Project); and

WHEREAS, the Project entails the acquisition, construction, and operation of an SDSU Mission Valley campus, stadium, parks, recreation, and innovation area to support SDSU's education, research, entrepreneurial, technology, and athletics programs; and

WHEREAS, the Project includes the following elements: (a) approximately 86 acres of parks, recreation, and open space, including a 34-acre River Park; (b) approximately 1.6 million square feet of campus uses for education, research, entrepreneurial and technology programs; (c) construction of a new, multipurpose 35,000-capacity stadium and corresponding demolition of the existing stadium; (d) approximately 4,600 residences, including student, faculty, staff,

workforce, and affordable housing; (e) approximately 400 hotel rooms; (f) approximately 95,000 square feet of community-serving retail space; (g) enhanced use of the MTS Green Line Stadium Trolley Station and accommodation of the planned Purple Line on the Site; and, (h) associated on-site and off-site infrastructure, utilities, facilities, and other amenities; and

WHEREAS, by Resolution R-312821, adopted effective January 30, 2020, the City Council approved the retention of the law firm of Kane, Ballmer & Berkman (Law Firm) as outside counsel to address legal issues in connection with the City's sale of the Site as well as the further preparation and negotiation of the PSA and related documents for the City's sale of the Site to SDSU; and

WHEREAS, the contract between the City and the Law Firm (Legal Services Agreement) is for an amount not to exceed \$250,000, to be paid entirely by the City's General Fund; and

WHEREAS, the real property transaction involving the Site is multi-faceted and complex, and SDSU has requested a high volume of changes to the PSA documents, which has led to more protracted and time-consuming negotiations than originally anticipated when the City Council authorized the retention of the Law Firm; and

WHEREAS, the Law Firm's services are needed to both complete the drafting of the PSA documents and the additional steps required for the closing of the sale transaction; and

WHEREAS, an expenditure increase of \$150,000 to the Legal Services Agreement, which would raise the total not-to-exceed amount from \$250,000 to \$400,000, is necessary to avoid a disruption in the Law Firm's services that would impede the steady progress of the sale transaction and the City's desire to close the transaction at the earliest opportunity; and

WHEREAS, the Office of the City Attorney has prepared a proposed First Amendment to the Legal Services Agreement (First Amendment), which would increase the maximum contract expenditure for the Law Firm by \$150,000, with such increase to be paid entirely by the City's Water Utility Fund; and

WHEREAS, it is appropriate to utilize the Water Utility Fund as the source of payment for the increased portion of the contract amount because the Water Utility Fund owns approximately 38.7 percent of the Site and thus may contribute to funding a proportionate share of the general transactional legal costs associated with the Project up to 38.7 percent; and

WHEREAS, the increase of \$150,000 in funding to be borne by the Water Utility Fund constitutes only 37.5 percent (\$150,000 out of a total of \$400,000) of the expenditure on general transactional legal costs associated with the Project; and

WHEREAS, the Council's approval of the First Amendment is required pursuant to San Diego Municipal Code section 22.3207(a)(2) because the contract would exceed \$250,000 in a fiscal year; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. That the First Amendment to the Legal Services Agreement with Kane, Ballmer & Berkman is approved, and the Mayor or his designee is authorized to execute this First Amendment for and on behalf of the City of San Diego in a total amount not to exceed \$400,000 (reflecting the \$150,000 increase, above the original \$250,000 contract amount).

2. That the Chief Financial Officer is authorized to expend an amount not to exceed \$150,000 from Fund 700011, Water Utility Operating Fund, over the term of the contract for the purpose of executing the First Amendment to the Legal Services Agreement, with any expenses outside of Fiscal Year 2020 contingent upon the adoption of the Appropriation Ordinance for the applicable Fiscal Year.

APPROVED: MARA W. ELLIOTT, City Attorney

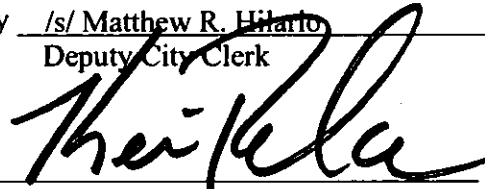
By /s/ Kenneth R. So
Kenneth R. So
Deputy City Attorney

KRS:soc:ccm
05/04/2020
Or.Dept: City Attorney
Doc. No.: 2370141_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of May 19, 2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Matthew R. Hilaris
Deputy City Clerk



KEVIN L. FAULCONER, Mayor

Approved: 5/21/2020
(date)

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAY 19 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 21 2020

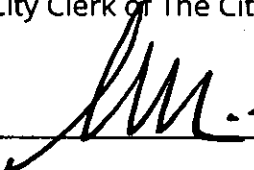
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California
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