

#100
10/19/2021

(R-2022-92)

RESOLUTION NUMBER R- 313750

DATE OF FINAL PASSAGE OCT 22 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH THE LAW FIRM OF LIEBERT CASSIDY WHITMORE TO PROVIDE CONTINUED AS-NEEDED LEGAL SERVICES AS PANEL OUTSIDE COUNSEL.

WHEREAS, the City of San Diego (City) issued Requests for Proposals (RFPs) in November 2017 and February 2018 seeking to retain panel outside counsel in seven areas of law on an as-needed basis in order to streamline the process for engaging outside counsel to avoid causing delays in City projects moving forward or putting the City at a disadvantage in litigation; and

WHEREAS, on July 20, 2018, the City Council approved the retention of 17 different law firms to represent the City in these seven areas of law, including the law firm of Liebert Cassidy Whitmore (Law Firm) to represent the City in the area of "Employment Litigation, Internal Investigations, and Fact-Findings"; and

WHEREAS, the Legal Services Agreement awarded to the Law Firm was in an amount not to exceed \$250,000; and

WHEREAS, the Law Firm will soon exceed the maximum not-to-exceed amount based on the prior and current work that the Law Firm is performing for the City, which includes having conducted two prior employment-related investigations and currently representing the City on the Dell'Anno lawsuit brought by a former Assistant City Attorney; and

WHEREAS, the City requires the legal services of the Law Firm to continue to defend the City on the Dell'Anno lawsuit especially in light of a quickly approaching trial date of November 12, 2021; and

WHEREAS, the Law Firm's services are needed because the Office of the City Attorney lacks capacity to handle these matters as there has been an over 37 percent increase in the number of lawsuits filed against the City over the last few years and there has also been a spike in the number of lawsuits filed and motions that need to be filed and responded to as a result of the court closure for several months earlier in the pandemic; and

WHEREAS, an increase of \$250,000 to the Legal Services Agreement, which would raise the total not-to-exceed amount from \$250,000 to \$500,000, is necessary to avoid a disruption in the Law Firm's services that would impede the current work that the Law Firm is performing and may also possibly allow the Law Firm to have capacity to take on additional legal work on an as-needed basis during the remainder of the five-year contract; 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 \$250,000; and

WHEREAS, the Office of the City Attorney is not seeking funding for this action because the funding will come from funds already appropriated by the City Council from various City departments such as the Risk Management Department; 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 Law Firm 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 \$500,000 (reflecting the \$250,000 increase, above the original \$250,000 contract amount).

2. That the Chief Financial Officer is authorized to appropriate and expend an amount not to exceed \$500,000, for the purpose of executing the First Amendment to the Legal Services Agreement, with Law Firm, contingent upon the adoption of the Annual Appropriation Ordinance for the applicable Fiscal Year and the Chief Financial Officer furnishing one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

APPROVED: MARA W. ELLIOTT, City Attorney

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

KRS:soc
09/15/2021
Or.Dept:City Attorney
Doc. No.: 2753199

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 19 2021.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 10/22/21
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on OCT 19 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 22 2021.

(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:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

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

By Sty Ready for Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
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