

#5500
10/19/2021

(R-2021-427)

RESOLUTION NUMBER R- 313751

DATE OF FINAL PASSAGE OCT 22 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING THE RETENTION OF MUSICK,
PEELER & GARRETT LLP AS OUTSIDE COUNSEL AND
APPROVING AN AGREEMENT FOR LEGAL SERVICES
WITH MUSICK, PEELER & GARRETT LLP.

WHEREAS, a lawsuit has been filed alleging class-wide violation of the Americans with Disabilities Act as regards the use and placement of Shared Mobility Devices in the City of San Diego; and

WHEREAS, that lawsuit, known as *Alex Montoya, et al. v. The City of San Diego* (U.S.D.C. Case No. 19cv00054 JM (BGS)), is now pending in the United States District Court for the District of Southern California; and

WHEREAS, due to a heavy workload in the City Attorney's Office, due to the number of attorneys appearing on behalf of the Plaintiffs in the lawsuit, due to the number of claims alleged by the Plaintiffs in the lawsuit, and due to the volume of documentary and electronically stored evidence demanded by the Plaintiffs in the lawsuit, the City Attorney's Office does not have the resources to advise the City on the lawsuit; and

WHEREAS, on April 15, 2021, the Purchasing Agent approved the Request and Certification for Sole Source Procurement; and

WHEREAS, Musick, Peeler & Garrett LLP has the necessary skills and experience to assist the City in this matter; and

WHEREAS, the requested amount for this engagement is \$850,845.00, to be paid from Public Liability Fund; and

WHEREAS, pursuant to San Diego Municipal Code section 22.3207, contracts over \$250,000 with outside counsel must be approved by the City Council.

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

1) Approving the Sole Source Contract between the City and the law firm of Musick, Peeler & Garrett LLP (The Agreement for Legal Services) for work to be done to represent the City in the case of *Alex Montoya, et al. v. City of San Diego* (U.S.D.C. Case No. 19cv00054 JM (BGS)), Risk Claim No. 21553.

2) Authorizes the City Attorney or her designee to retain Musick, Peeler & Garrett LLP as outside counsel to represent the City on *Alex Montoya, et al. v. City of San Diego* (U.S.D.C. Case No. 19cv00054 JM (BGS)) and to pay up to the sum of \$850,845.00 from Public Liability Fund No. 720045, for work done pursuant to the Sole Source contract with Musick, Peeler & Garrett LLP.

3) Authorizes the Chief Financial Officer to appropriate and expend an amount not to exceed \$850,845.00 from Public Liability Fund No. 720045, to provide funds for the above-referenced Agreement for Legal Services between the City and the law firm of Musick, Peeler &

Garrett LLP, contingent upon the Chief Financial Officer first issuing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit in the City Treasurer.

APPROVED: MARA W. ELLIOTT, City Attorney

By s/Danna W. Nicholas
Danna W. Nicholas
Deputy City Attorney

DWN:nmm
September 28, 2021
Or.Dept: City Attorney
CC No.: 300014290
Doc. No.: 2562243

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

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

DEPT.
NO.:

3000014290

1515

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$850,845 Fund: 720045

Purpose: Retention of Outside Counsel Musick, Peeler & Garrett LLP in Alex Montoya, et a. v. The City of San Diego, United States District Court Case No. 19cv00054 JM (BGS), Risk Claim No. 21553.

Date: September 17, 2021

By: Nicholas O'Donnell *Nicholas O'Donnell*
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	720045			OTHR-00000000-GG	512042	1515	1515000011		\$850,845
TOTAL AMOUNT									\$850,845

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____

Vendor: _____

Purpose: _____

Date: _____

By: _____
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
TOTAL AMOUNT									

FUND OVERRIDE ☐

3000014290

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 Stacy Ruedy for Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 313751