

#5512
08/02/2022

(R-2023-57)

RESOLUTION NUMBER R- **314301**

DATE OF FINAL PASSAGE **AUG 09 2022**

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO RATIFYING THE SECOND AMENDMENT AND
AUTHORIZING THE MAYOR TO NEGOTIATE AND SIGN A
THIRD AMENDMENT TO A CONTRACT WITH JCI JONES
CHEMICALS, INC. FOR THE PURCHASE OF CAUSTIC
SODA TO ALLOW FOR PRICE INCREASES RELATED TO
COSTS OF RAW MATERIALS AND RELATED ACTIONS.

WHEREAS, the City of San Diego (City's) Public Utilities Department (Department)
operates water and wastewater facilities which require certain chemicals as part of the treatment
process; and

WHEREAS, one of the required chemicals is caustic soda (50% solution) (Caustic Soda),
which adjusts the effluent pH for corrosion control throughout the City's potable water
distribution system, and is used to adjust the pH in the Odor Control Towers used to treat foul air
in the wastewater treatment process; and

WHEREAS, in February 2019, City issued Invitation to Bid No. 10089515-19-V for
Caustic Soda, and JCI Jones Chemicals, Inc. (Contractor) was the lowest responsive bidder; and

WHEREAS, on March 18, 2019, the City entered into a contract with the Contractor for a
one year term with a not to exceed amount of \$3,000,000, with four additional one year options
(Contract). In February 2020, the Council of the City of San Diego (Council) authorized the
exercise of the four additional option years and approved increasing the not to exceed amount to
\$9,384,614, by San Diego Resolution R-312852 (February 20, 2020); and

WHEREAS, since the submission of the bid, and the approval of the Contract, the
Contractor has experienced unanticipated rises in costs of raw materials necessary to make
Caustic Soda as a result of COVID-19, supply chain issues, and other world events; and

WHEREAS, Contractor has approached City and requested that City agree to an increase in the pricing for the Caustic Soda in order to allow Contractor to continue to deliver the required chemical to the City's facilities; and

WHEREAS, the City's Purchasing and Contracting Department reviewed the materials submitted by the Contractor to support its request for an increase in pricing, and conducted its own research and determined that there has been a significant increase in costs for the raw materials for this chemical; and

WHEREAS, the Department and the Purchasing and Contracting Department determined that the increased price is appropriate based on the market data, and have determined that due to the time sensitive critical need of these chemicals, it would not be advantageous to the City to use a competitive process to obtain another contractor; and

WHEREAS, a Second Amendment to the Contract to allow an increase in pricing was previously administratively approved on March 7, 2022, however, upon further review and in light of additional requests for increased pricing, it was determined that the Second Amendment, which is included in the docket materials accompanying this resolution required Council ratification; and

WHEREAS, City staff is negotiating a third amendment to the Contract to allow the pricing for Caustic Soda to be increased to a fixed price through September 30, 2022, and to allow future increases in pricing based on the Contractor's actual costs of the raw materials plus a mark-up, which if approved will be effective May 1, 2022 (Third Amendment); and

WHEREAS, the temporary pricing included in the Second and Third Amendments and the new pricing structure under the Third Amendment will result in an increase in compensation paid under the Contract in an amount estimated to be \$6,841,550 for the remaining term, and as a

result the Third Amendment will increase the total not to exceed amount of the Contract to \$16,226,164; and

WHEREAS, it is necessary to obtain Council authorization to enter into a Third Amendment prior to the Council's legislative recess in order to avoid a delay or interruption in the delivery of these chemicals once the City and the Contractor have reached an agreement on the Third Amendment; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

1. The Second Amendment to the Contract, on file with the City Clerk as Document No. ~~RR~~-314301, is ratified.

2. The Mayor or designee is authorized to negotiate and sign a Third Amendment to the Contract that allows the Mayor or designee, without further approval by Council, to approve price increases related to the purchase of Caustic Soda during the term of the Contract, as follows: (i) The not to exceed amount of the Contract will be increased to \$16,226,164; (ii) For the period from May 1, 2022, to June 30, 2022, the pricing for Caustic Soda shall be \$980.00 per dry ton; (iii) For the period from July 1, 2022, through September 30, 2022, the pricing for Caustic Soda shall be \$1,106.00 per dry ton; (iv) Effective October 1, 2022, the City shall have the authority to approve additional price increases provided that they will not cause the compensation paid under the Contract to exceed \$16,226,164; (v) Any approved price increases after October 1, 2022, must be based on actual cost increases for raw materials used to

manufacture Caustic Soda, that have been verified by City staff, and may include a mark-up if the Mayor determines that agreeing to a price increase or mark-up is in the best interest of the City; (vi) Exhibit C of the Contract, which is the City's General Terms and Conditions, may be updated to reflect the current City General Terms and Conditions; and (vii) The effective date of the Third Amendment will be May 1, 2022. The Mayor's authority to sign the Third Amendment shall be contingent upon 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.

3. The Chief Financial Officer is authorized to expend an additional amount not to exceed \$6,841,550 (for a total not to exceed amount of \$16,226,164 for the Contract) from the Water Utility Operating Fund 700011 in an estimated amount of \$5,794,793, the Metro Sewer Utility Fund 700001 in an estimated amount of \$985,183, and the Muni Sewer Revenue Fund 700000, in an estimated amount of \$61,574, which estimated amounts may be adjusted based on actual usage and needs of the facilities, for the purpose of purchasing Caustic Soda under the terms of the Contract including all amendments to the Contract for the remaining term of the Contract, contingent upon the adoption of the Annual Appropriation Ordinance for the applicable fiscal year, and contingent upon 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/ Melissa D. Ables
Melissa D. Ables
Chief Deputy City Attorney

MDA:cw
07/19/22
Or.Dept: Public Utilities Department
CC No.: N/A
Doc. No.: 3035473_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of AUG 02 2022.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 8/8/22
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on AUG 02 2022, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 AUG 09 2022.

(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 Connie Patterson Deputy

Office of the City Clerk, San Diego, California

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