

RESOLUTION NUMBER R- **314302**

DATE OF FINAL PASSAGE **AUG 09 2022**

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

WHEREAS, the City of San Diego (City's) Public Utilities Department (Department) operates wastewater treatment plants and pump stations that require certain chemicals as part of the treatment process; and

WHEREAS, one of the required chemicals is sodium hypochlorite, which is necessary for disinfection and odor control at several plants and pump stations; and

WHEREAS, in June 2020, City issued Invitation to Bid No. 10089682-20-V for sodium hypochlorite, and JCI Jones Chemicals, Inc. (Contractor) was determined to be the lowest, responsive bidder; and

WHEREAS, the Council of the City of San Diego (Council) approved a contract effective December 29, 2020, with Contractor for the purchase of sodium hypochlorite in an amount not to exceed \$13,300,000, by San Diego Resolution R-313364 (December 9, 2020) (Contract); 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 sodium hypochlorite 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 sodium hypochlorite in order to allow Contractor to continue to deliver the required chemical to the City's wastewater 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 prior amendment to the Contract to allow an increase in pricing was previously approved (First Amendment), which upon further review and in light of additional request for increased pricing, it was determined that the First Amendment required Council ratification; and

WHEREAS, City staff is currently negotiating a second amendment to the Contract to allow the pricing for sodium hypochlorite to be increased to a price certain through September 30, 2022, and to allow the City to approve future increases in pricing based on the Contractor's actual costs of raw materials plus a mark-up, which if approved will be effective May 16, 2022 (Second Amendment); and

WHEREAS, the price increases under the First and Second Amendments, and the new pricing structure will result in an increase in compensation paid under the Contract in an amount estimated to be \$24,991,700 for the remaining term, and as a result the Second Amendment will increase the total not to exceed amount of the Contract to \$38,291,700; and

WHEREAS, it is necessary to obtain Council authorization to enter into a Second 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 Second 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 First Amendment to the Contract, on file with the City Clerk as Document No.: **RR-314302**, is ratified.
2. The Mayor or designee is authorized to negotiate and sign a Second Amendment to the Contract that allows the Mayor or designee, without further approval by Council, to approve price increases related to the purchase of sodium hypochlorite during the term of the Contract, as follows: (i) The not to exceed amount of the Contract will be increased to \$38,291,700; (ii) For the period from May 16, 2022, through June 30, 2022, the pricing for sodium hypochlorite shall be \$1.3442 per gallon; (iii) For the period from July 1, 2022, through September 30, 2022, the pricing for sodium hypochlorite shall be \$1.6386 per gallon; (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 \$38,291,700; (v) Any approved price increases after October 1, 2022, must be based on actual cost increases for raw materials used to manufacture sodium hypochlorite, 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) The effective date of the Second Amendment will be May 16, 2022. The Mayor's authority to sign the Second Amendment is

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 \$24,991,700 (for a total not to exceed amount of \$38,291,700 for the Contract) from the Metro Sewer Utility Fund 700001 in an estimated amount of \$24,466,874, and from the Muni Sewer Revenue Fund 700000 in an estimated amount of \$523,146, which estimated amounts may be adjusted based on actual needs of the various facilities, for the purpose of purchasing sodium hypochlorite under the terms of the Contract including 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.: 3034756\_4

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 Connie Patterson  
Deputy City Clerk

Approved: 8/8/22  
(date)

Todd Gloria  
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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