

RESOLUTION NUMBER R- 314668

DATE OF FINAL PASSAGE MAR 28 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE THIRD AMENDMENT TO THE AS-NEEDED AGREEMENT WITH THE LAW FIRM OF SCHWARTZ, SEMERDJIAN, CAULEY & EVANS LLP TO PROVIDE CONTINUED 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 Council of the City of San Diego (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 Schwartz, Semerdjian, Cauley & Evans LLP (Law Firm) to represent the City in the area of "Business and Financial Affairs"; and

WHEREAS, the area of "Business and Financial Affairs" relates to municipal issues that include among other things, the handling of real property matters; and

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

WHEREAS, on September 21, 2021, the City Council approved the First Amendment to the Legal Services Agreement, which increased the not-to-exceed amount of the contract with the Law Firm from \$250,000 to \$750,000; and

WHEREAS, on September 22, 2022, the City Council approved the Second Amendment to the Legal Services Agreement, which increased the not-to-exceed amount of the contract with the Law Firm from \$750,000 to \$1.1 million; and

WHEREAS, the Law Firm will soon exceed the maximum not-to-exceed amount based on the current work that the Law Firm is performing for the City, which includes representing the City on litigation related to the 101 Ash Street and Civic Center Plaza transactions as the City prepares for trial; and

WHEREAS, the City requires the legal services of the Law Firm to continue to represent the City on these matters; and

WHEREAS, the Law Firm's services are needed because the Office of the City Attorney lacks capacity to handle these matters with the departure of experienced senior litigators and leave of other litigators; and

WHEREAS, an increase of \$400,000 to the Legal Services Agreement, which would raise the total not-to-exceed amount from \$1.1 million to \$1.5 million, is necessary to avoid a disruption in the Law Firm's services that would impede the current work that the Law Firm is performing which all have deadlines that must be met 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 Third Amendment to the Legal Services Agreement (Third Amendment), which would increase the maximum contract expenditure for the Law Firm by \$400,000; and

WHEREAS, the City Council's approval of the Third Amendment is required pursuant to San Diego Municipal Code section 22.3207(a)(2) because the contract would exceed \$1 million in a fiscal year; NOW, THEREFORE,

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

1. That the Third Amendment to the As-Needed Legal Services Agreement with Law Firm is approved, and the Mayor or his designee is authorized to execute this Third Amendment for and on behalf of the City of San Diego in a total amount not to exceed \$1.5 million (reflecting the \$400,000 increase, above the current \$1.1 million contract amount).
2. That the Chief Financial Officer is authorized to expend an amount not to exceed \$1.5 million, for the purpose of executing the Third 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



Ken So
Chief Deputy City Attorney

KRS:cc
01/23/2023
Or.Dept:City Attorney
Doc. No. 3221274

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 20 2023.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 3/27/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on MAR 20 2023, 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"/>
Kent Lee	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 MAR 28 2023.

(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)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 314668