

#53
01/09/2024

ORDINANCE NUMBER O- 21755

DATE OF FINAL PASSAGE JAN 16 2024

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING THE SECOND AMENDMENT
TO THE AGREEMENT WITH THE LAW FIRM OF
COLANTUONO, HIGHSMITH & WHATLEY TO PROVIDE
CONTINUED AS-NEEDED LEGAL SERVICES AS PANEL
OUTSIDE COUNSEL

WHEREAS, in November 2017 and February 2018, the City of San Diego (City) issued Requests for Proposals (RFPs), 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 delays in City projects moving forward and putting the City at a disadvantage in litigation; and

WHEREAS, on July 20, 2018, by San Diego Resolution R-311866 (July 20, 2018), the City Council (Council) approved the retention of 17 different law firms to represent the City on an as-needed basis in these seven areas of law, including the law firm of Colantuono, Highsmith & Whatley, PC (Law Firm) to represent the City; and

WHEREAS, the Legal Services Agreement awarded to the Law Firm was originally in an amount not to exceed \$250,000 and then increased to \$500,000; and

WHEREAS, the City requires the legal services of the Law Firm to continue assisting with the City's defense in two pending lawsuits, *Patz v. City of San Diego* and *Allred v. City of San Diego*; and

WHEREAS, the Law Firm will exceed the maximum contract time limit of five years; and

WHEREAS, the City Attorney's Office is now seeking to extend the five-year contract by three-years, to an eight-year contract; and

WHEREAS, an increase of \$250,000 to the Legal Services Agreement, which would raise the total not-to-exceed amount from \$500,000 to \$750,000, 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

WHEREAS, the Office of the City Attorney has prepared a proposed Second Amendment to the Legal Services Agreement (Second Amendment), which would increase the maximum contract expenditure for the Law Firm by \$250,000; and

WHEREAS, the Council must approve the Second Amendment to the Contract in accordance with San Diego Charter section 99 because the term of the extended Contract will exceed five years; NOW, THEREFORE;

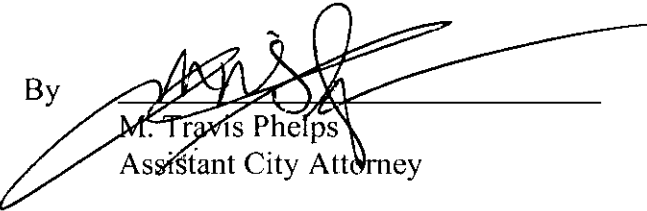
BE IT ORDAINED, by the City Council of the City of San Diego, as follows:

1. That the Second Amendment to the Legal Services Agreement with Law Firm is approved, and the Mayor or his designee is authorized to execute the Second Amendment to the legal services agreement with the Law Firm, to increase the term of the contract by three years, for a total not to exceed eight years, and the total not-to-exceed amount to \$750,000 from \$500,000, for a total of \$250,000 for the Second Amendment.

2. That the Chief Financial Officer is authorized to expend an amount not to exceed \$250,000 (with a total not to exceed amount of \$750,000 for this contract) from the Municipal Sewer Fund No. 70000 or Water Fund No. 700011 for purposes of funding the Second Amendment to the Contract, with the authorization 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 
M. Travis Phelps
Assistant City Attorney

October 2, 2023
Or.Dept: City Attorney
CC No.3000016238

I certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 09 2024.

DIANA I.S. FUENTES
City Clerk
By 
Deputy City Clerk

Approved: 1/12/24
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(Note: The date of final passage is January 16, 2024, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

**The City of San Diego
COMPTROLLER'S CERTIFICATE**

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING DEPT. 3000016238
NO.: 2000

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: _____ Fund: _____

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

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: _____ \$250,000.00

Vendor: Colantuono, Highsmith & Whatley

Purpose: Second Amendment to Agreement with Colantuono, Highsmith & Whatley to Provide Continued Legal Services as Panel Outside Counsel.

Date: October 31, 2023 By: Jessica Tran Elizabeth Warnock
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	700011			OTHR-00000000-WU	512042	2000	20000000001		\$125,000.00
2	700000			OTHR-00000000-SU	512042	2000	20000000001		\$125,000.00
TOTAL AMOUNT									\$250,000.00

Passed by the Council of The City of San Diego on JAN 09 2024, 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"/>
District 4 - vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 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 JAN 16 2024.

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

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 05 2023, and on JAN 16 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(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

Ordinance Number O- 21755