

RESOLUTION NUMBER R- 315763

DATE OF FINAL PASSAGE SEP 23 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE WAIVER OF A CONFLICT OF
INTEREST REQUESTED BY HAWKINS DELAFIELD &
WOOD LLP AND CONSENTING TO HAWKINS'
REPRESENTATION OF THE STATE WATER RESOURCES
CONTROL BOARD OF THE STATE OF CALIFORNIA.

WHEREAS, in January 2024, the City Attorney's Office (CAO) issued a Request for Proposal (RFP) seeking outside counsel services for the City of San Diego's (City) Water Utility; and

WHEREAS, in its response to the RFP, Hawkins Delafield & Wood LLP (Hawkins) indicated that it serves as outside general counsel to the State Water Resources Control Board of the State of California (Water Board) in connection with the Water Board's various State Revolving Fund (SRF) loans, which includes responding to inquiries from time to time about specific provisions of the SRF contracts and related materials; and

WHEREAS, despite the acknowledged conflict, the panel reviewing RFP responses selected Hawkins as the best law firm to represent the City with respect to Water Utility-related financings and the City entered into a five (5) year contract with Hawkins; and

WHEREAS, the City is currently working with Nixon Peabody LLP (Nixon) on two SRF Loans to the Water Utility that have been in process for more than a year under an existing contract for outside loan counsel services; and

WHEREAS, unless and until the City Council authorizes Hawkins' requested conflict waiver, Nixon will continue to assist the City with SRF loans for the City's Water Utility; and

WHEREAS, Nixon currently represents the City as outside counsel for all financing matters for the City's Sewer Utility; and

WHEREAS, the CAO and Department of Finance staff would prefer that the City Council authorize Hawkins' requested conflict waiver so that staff may achieve their goal of having a single law firm represent the City on all financings for each of its three (3) separate credits (i.e., the Water Utility, Sewer Utility, and General Fund); and

WHEREAS, Hawkins' work for the Water Board is performed by Diane Quan, a Partner with the firm, and work for the City on SRF loans will be performed by a different Partner, Melanie Murakami; and

WHEREAS, Hawkins will maintain the confidentiality of any information received from the City and will screen or create an "ethical wall" between those attorneys when Ms. Murakami is working on the City's Water Utility's SRF loans; and

WHEREAS, under California Rules of Professional Conduct, Rule 1.7, an attorney shall not, without the informed written consent of each client, represent a client if the representation is directly adverse to another client in the same or separate matter; and

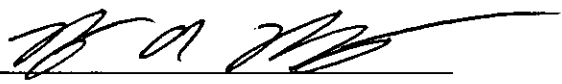
WHEREAS, granting Hawkins' requested conflict of interest waiver does not pose a detrimental risk to the City, as Hawkins possesses no confidential City information related to the City's Water Utility or its finances and will implement appropriate screening measures to protect against the sharing of confidential or strategic City information within the law firm; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided 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. Consents to Hawkins' ongoing representation of the Water Board as outside general counsel in connection with the Water Board's various SRF loans and waives any conflict of interest.
2. Authorizes the Mayor or his designee to sign the requested waiver on behalf of the City.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
 Bret A. Bartolotta
 Chief Deputy City Attorney

BAB:jdf
 07/29/2024
 Or.Dept: CAO
 Doc. No. 3722478

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 16 2024.

DIANA J.S. FUENTES
 City Clerk

By 
 Deputy City Clerk

Approved: 9/23/24
 (date)


 TODD GLORIA, Mayor

Vetoed: _____
 (date)

 TODD GLORIA, Mayor

