

RESOLUTION NUMBER R- 315877

DATE OF FINAL PASSAGE NOV 15 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE RETENTION OF STOEL RIVES, LLP AS OUTSIDE COUNSEL FOR *COASTKEEPER V. CITY OF SAN DIEGO*, CASE NO.: 3:18-CV-01757-JM-WVG AND A WAIVER OF POTENTIAL CONFLICTS OF INTEREST.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. The Miramar Landfill, Metropolitan Biosolids Center, North City Water Reclamation Plant, South Bay Water Reclamation Plant, and Point Loma Wastewater Treatment Plant (City Facilities) are industrial facilities that must comply with the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (Industrial General Permit). In early 2017, San Diego Coastkeeper and the Coastal Environmental Rights Foundation alleged violations of the Industrial General Permit at the City Facilities in the case of *Coastkeeper v. City of San Diego*, Case No.: 3:18-cv-01757-JM-WVG (Lawsuit).

B. The City originally retained Downey Brand Attorneys, LLP, to assist the City with settlement negotiations and legal advice related to compliance with the Industrial General Permit at the City Facilities. The contract was a sole source contract based on Downey Brand's lead attorney assigned to the case Nicole Granquist's expertise in this area.

C. Ms. Granquist has been the lead attorney advising on these matters since early 2018. She assisted with reaching a settlement agreement in the form of a Consent Decree, which the Council approved in October, 2018. Since that time, Ms. Granquist continued to advise the City regarding compliance with the Consent Decree and the Industrial General Permit at the City

Facilities. In 2023, the Consent Decree was amended to allow the City additional time to comply with specific terms and conditions of the Consent Decree.

D. On September 30, 2024, Ms. Granquist moved her legal practice to Stoel Rives, LLP (Law Firm). In order for Ms. Granquist to continue representing the City in these matters, the City must enter into a new contract with the Law Firm for legal services.

E. The Office of the City Attorney recommends that the City retain outside legal counsel to provide the specialized legal expertise needed to assist in the City in implementing the Consent Decree, including advising on compliance with the Industrial General Permit at the City Facilities. On October 22, 2024, the Purchasing Agent approved the Request and Certification for Sole Source Procurement.

F. The Law Firm has the necessary skills and experience to assist the City in the Lawsuit and implementation of the Consent Decree.

G. The Law Firm requested a conflict-of-interest waiver from the City because the Law Firm represents the San Diego Metropolitan Transit Systems (MTS) in affordable housing transit-oriented development on MTS-owned land, and transit related facilities and infrastructure projects (collectively, Land Use Matters) located within the City, including matters where the City is potentially adverse to MTS in the land use and environmental permitting setting.

H. Under the 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.

I. The Law Firm's representation of MTS in the Land Use Matters is completely unrelated to the legal services to be performed in relation to the Lawsuit and compliance with the Industrial General Permit at the City Facilities.

J. Granting the Law Firm's request for a conflict-of-interest waiver does not pose a detrimental risk to the City as the Law Firm has obtained no confidential City information related to the Land Use Matters and it will implement appropriate screening measures to protect against the sharing of confidential City information within the Law Firm.

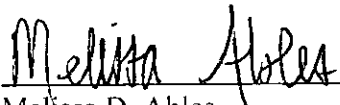
K. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The Council authorizes the City's retention of the Law Firm to provide legal services to the City related to the Lawsuit and implementation of the Consent Decree, including compliance with the Industrial General Permit at the City Facilities.
2. The Council approves the waiver of the potential conflicts of interest requested by the Law Firm and consents to the Law Firm's representation of MTS in the Land Use Matters.
3. The Mayor, or designee, is authorized on behalf of the City, to sign the requested waiver.

APPROVED: MARA W. ELLIOTT, City Attorney

By  _____
Melissa D. Ables
Chief Deputy City Attorney

MDA:jn2
October 24, 2024
Or.Dept: PUD
Doc. No. 3857849

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on
NOV 12 2024

DIANA J.S. FUENTES
City Clerk

By *Kristel Medina*
Deputy City Clerk

Approved: 11/15/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on NOV 12 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 type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Henry L. Foster III | <input checked="" 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 NOV 15 2024.

(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 Dinda Irwin, Deputy
For Krystell Medina

Office of the City Clerk, San Diego, California

Resolution Number R- 315877