

ORDINANCE NUMBER O- **21906** (NEW SERIES)DATE OF FINAL PASSAGE JAN 23 2025

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE LONG TERM MAINTENANCE AND MONITORING AGREEMENT OPTION TO THE CONSTRUCTION SERVICES AGREEMENT WITH DICK MILLER, INC. FOR CONSTRUCTION OF THE BEYER PARK DEVELOPMENT PROJECT AND AUTHORIZING RELATED ACTIONS.

RECITALS

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

- A. The City of San Diego (City) executed a construction services agreement on March 20, 2024, with Dick Miller, Inc. (DMI) for the construction of the Beyer Park Development Project (Agreement).
- B. The Mitigated Negative Declaration for the project requires maintenance and monitoring of enhancement/restoration areas for a period of 60 months following the completion of the enhancement and restoration work. The Agreement provided the City had one year to exercise an option to require DMI to enter into a 60-month Long Term Maintenance and Monitoring Agreement at a guaranteed price for the biological monitoring of the enhancement and restoration Areas.
- C. The City desires to exercise the LTMMA option, which will extend the term of the Agreement beyond five years. Exercising the LTMMA option and signing the 60-Month LTMMA (included in the docket materials accompanying this Ordinance) will increase the not-to-exceed compensation amount by \$418,030, to a total of \$17,066,340.00 and extend the term of the Agreement by 60 months for a total of 76 months.

D. The Office of the City Attorney prepared this Ordinance 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.

E. The Agreement is subject to San Diego Charter section 99, which provides (subject to certain exceptions) that no contract, agreement, or obligation creating City indebtedness and extending for a period of more than five years may be authorized except by an ordinance adopted by a two-thirds majority of the Council.

#### ACTION ITEMS

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

Section 1. The Council approves the exercising of the LTMMA option.

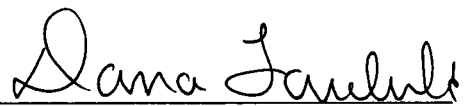
Section 2. The Mayor or designee is authorized, on the City's behalf, to sign and deliver the 60-Month LTMMA to exercise the LTMMA option. When signed by both parties, the Agreement, including the 60-month LTMMA, will be placed on file in the Office of the City Clerk as Document No. OO- **21906**.

Section 3. The Chief Financial Officer is authorized to expend funds in an amount not to exceed \$418,030, from CIP S-00752.07.04 Beyer Park Development, Fund 400856 Otay Mesa FBA, for the purpose of providing for the increased compensation under the Agreement, including the LTMMA option, contingent upon the Chief Financial Officer first certifying that the funds necessary for expenditure under the established contract funding phases are, or will be, on deposit with the City Treasurer.

Section 4. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 5. This Ordinance will take effect and be in force on the thirtieth day from  
and after its final passage.

APPROVED: HEATHER FERBERT, City Attorney

By   
Dana Fairchild  
Deputy City Attorney

DF:hm  
November 13, 2024  
January 8, 2025 COR.COPY  
Or.Dept: E&CP  
Doc. No. 3876123\_2

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on  
JAN 14 2025.

DIANA J.S. FUENTES  
City Clerk

By   
City Clerk

Approved: 1/23/25  
(date)

  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JAN 14 2025, 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"/>
Henry L. Foster III	<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 JAN 23 2025.

AUTHENTICATED BY:

(Seal)

TODD GLORIA  
Mayor of The City of San Diego, California.

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

By Linda Green, 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 09 2024, and on JAN 23 2025.

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 Linda Green, Deputy  
For Connie Patterson

Office of the City Clerk, San Diego, California

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