

RESOLUTION NUMBER R- 315976DATE OF FINAL PASSAGE JAN 23 2025

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE SECOND AMENDED LEGAL
SERVICES AGREEMENT WITH BUCHALTER APC.

RECITALS

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

A. On June 25, 2021, by San Diego Resolution R-313599 (June 25, 2021), the Council approved the retention of the Buchalter, APC (Law Firm), where Ms. Miller is a Shareholder, to pursue indemnification and recovery of insurance proceeds against the City's insurance carriers in the De Anza Matter and to identify potential sources of indemnification in the 101 Ash Matter. The contract with the Law Firm was approved, with a not-to-exceed amount of \$600,000 pursuant to the Purchasing and Contracting Director's execution of a sole source certification memo to proceed with retention of the Law Firm because the City receives no competitive advantage by conducting a more formal competitive solicitation; On or about June 25, 2021, the City and Law Firm entered into a Legal Services Agreement (Agreement) for a term not to exceed five years and in an amount not to exceed \$600,000.00.

B. On December 13, 2023, the City and Law Firm entered into a First Amendment to the Agreement, increasing the not-to-exceed amount by \$800,000 to \$1,400,000.

C. The City Attorney's Office (Office) is now seeking an increase only to the not-to-exceed amount of the Agreement and does not seek any other amendment to the Agreement.

D. The proposed Second Amendment to increase the Agreement by an additional \$600,000 is necessary to allow the Law Firm to continue to represent the City in litigation matters involving De Anza Cove, 101 Ash Street, for the Law Firm to assist the City in

responding to insurance coverage issues in multiple lawsuits arising from the January 22, 2024, rain occurrence and flooding filed by over 1,200 plaintiffs including *Gregory Montoya, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2024-00021327-CU-EI-CTL and for the Law Firm to represent the City in insurance coverage lawsuit filed against the City by electric scooter operator Superpedestrian's insurance carrier seeking to void insurance coverage to the City for *Cecilia Sepulveda v. City of San Diego*, San Diego Superior Court Case No. 37-2022-00029023-CU-PO-CTL.

E. This Office seeks Council approval of the Second Amendment to the Agreement.

ACTION ITEMS

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

1. Authorizes the Mayor or his designee to approve and execute the Second Amendment to the Agreement with the Law Firm, in a total amount not to exceed \$2,000,000 (reflecting the \$600,000 increase above the current \$1,400,000 contract amount) to be paid by Public Liability Fund No. 720045.

2. Authorizes the Chief Financial Officer or his designee to appropriate and expend an amount of \$600,000 (not to exceed \$2,000,000.00 for the overall Contract) for purposes of funding the Second Amendment to the Agreement, to be funded by the Public Liability Fund No. 720045.

APPROVED: HEATHER FERBERT, City Attorney

By


M. Travis Phelps
Assistant City Attorney

MTP:mgm
November 22, 2024
January 9, 2025 COR. COPY
Or. Dept: City Attorney

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on
JAN 13 2025

DIANA J.S. FUENTES
City Clerk

By Kristell Medina
Deputy City Clerk

Approved: 1/29/25
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JAN 18 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 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 23 2025.

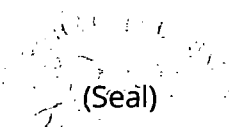
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

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

By *Gina Drwin*, Deputy
For *Krystell Medina*



Office of the City Clerk, San Diego, California
Resolution Number R- 315976