

RESOLUTION NUMBER R- 315977

DATE OF FINAL PASSAGE JAN 23 2025

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING THE RETENTION OF
MCDUGAL BOEHMER FOLEY LYON MITCHELL &
ERICKSON AS OUTSIDE COUNSEL AND APPROVING AN
AGREEMENT FOR LEGAL SERVICES WITH MCDUGAL
BOEHMER FOLEY LYON MITCHELL & ERICKSON

RECITALS

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

A. Multiple lawsuits have been filed by over 1,200 Plaintiffs against the City of San Diego involving the rainfall occurrence and flooding on January 22, 2024, including the case of *Gregory Montoya, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2024-00021327-CU-EI-CTL and related cases.

B. Due to the large number of lawsuits and the unusual and complex nature of the legal issues involved, the City Attorney's Office does not have the necessary expertise to advise the City on *Gregory Montoya et al. v. City of San Diego* and related matters.

C. Due to a heavy workload, the City Attorney's Office does not have the adequate staff to advise the City on *Gregory Montoya, et al. v. City of San Diego* and related matters.

D. On January 7, 2025, the Purchasing Agent approved the Request and Certification for Sole Source Procurement.

E. The law firm McDougal Boehmer Foley Lyon Mitchell & Erickson (Law Firm) has the necessary skills and experience to assist the City in these matters.

F. The City Attorney's Office is now seeking to enter into a five-year contract with the Law Firm.

G. The requested amount for this engagement is \$500,000.00 to be paid from the Public Liability Fund No. 720045.

ACTION ITEMS

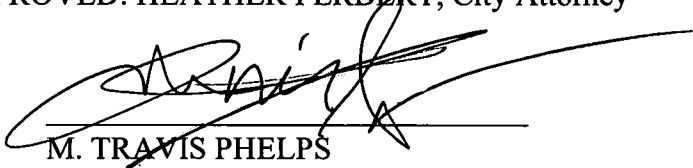
Be it resolved by the Council of the City of San Diego:

1. Authorizes the City Attorney to retain McDougal Boehmer Foley Lyon Mitchell & Erickson as outside counsel to represent the City in *Gregory Montoya, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2024-00021327-CU-EI-CTL and related matters alleging damages arising from the January 22, 2024 rainfall occurrence, in an amount not to exceed \$500,000.00 paid by Public Liability Fund No. 720045.

2. Authorizes the Mayor or his designee to approve the Agreement and execute, an Agreement for Legal Services with McDougal Boehmer Foley Lyon Mitchell & Erickson for legal services and expenses incurred in the case of *Gregory Montoya, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2024-00021327-CU-EI-CTL and related matters alleging damages arising from the January 22, 2024 rainfall occurrence and flooding, in an amount not to exceed \$500,000.00 from the Public Liability Fund No. 720045, under the terms and conditions set forth in the Agreement for Legal Services on file in the Office of the City Clerk.

3. Authorizes the Chief Financial Officer to appropriate and expend an amount not to exceed \$500,000.00 from the Public Liability Fund No. 720045, for the purpose of funding the Agreement with the Law Firm, contingent upon the adoption of the 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: HEATHER FERBERT, City Attorney

By 
M. TRAVIS PHELPS
Assistant City Attorney

MTP:mgm
November 18, 2024
Or. Dept: City Attorney
CC No. 3000017348
Doc. No. 3881202

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 
Deputy City Clerk

Approved: 1/23/25
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

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

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

CC 3000017348
DEPT. NO.: 1211

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: \$500,000.00

Purpose: Approval of Retention of McDougal Boehmer Foley Lyon Mitchell & Erickson to represent the City 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 related matters.

Date: December 5 2024

By: Lauren Rehkopf *Lauren Rehkopf*

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	720045	NON-PROGRAM		OTHR-00000000-GG	512042	1515	1515000011		\$500,000.00
TOTAL AMOUNT									\$500,000.00

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: _____

Vendor: _____

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

Passed by the Council of The City of San Diego on JAN 13 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.

(Seal)

By Jinda Irwin, Deputy
For Krystell Medina

Office of the City Clerk, San Diego, California
Resolution Number R- 315977