

RESOLUTION NUMBER R- 316079

DATE OF FINAL PASSAGE MAR 14 2025

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING RETENTION OF THE LAW  
FIRM KUTAK ROCK LLP AS OUTSIDE COUNSEL IN  
CONNECTION WITH LITIGATION RELATED TO THE  
FORMER NAVAL TRAINING CENTER BOAT CHANNEL

RECITALS

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

A. On March 27, 2023, the Department of the Navy (Navy) filed a lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), entitled *United States of America v. City of San Diego*, United States District Court Case No. 23-cv-00541 LL BJC, seeking contribution from the City for a limited cleanup the Navy performed at the former Naval Training Center (NTC) Boat Channel.

B. The City and Navy also filed claims and counterclaims related to the May 2000 Memorandum of Agreement (MOA) the City and Navy executed for transfer of the former NTC parcels, including the Boat Channel property, under the Base Realignment and Closure Act (BRAC); the City claims, among other things, that the Navy failed to adequately remediate the property to protect human health and the environment, as required under the MOA.

C. The City retained Wood Smith Henning & Berman (WSHB) as outside counsel prior to the litigation to assist with issues related to CERCLA and the Navy's remediation of the NTC Boat Channel.

D. After litigation commenced, WSHB determined it did not have the requisite experience in BRAC to address the interrelated BRAC, CERCLA, and contract issues. The BRAC process, including environmental investigation and cleanup, is governed by a myriad of complex federal statutes, rules, regulations, policies, and Department of Defense guidance.

E. Since the environmental process at the NTC Boat Channel occurred under the BRAC umbrella, having counsel with experience in this unique area is imperative.

F. As a result, WSHB retained Kutak Rock LLP (Kutak Rock) as a subcontractor to provide the City with these specialized legal services as Kutak Rock has CERCLA and BRAC expertise relevant to the lawsuit.

G. Due to Kutak Rock's expanded involvement in the lawsuit, the City desires to retain Kutak Rock directly to continue providing these necessary specialized services.

H. The Stormwater Department previously paid \$174,908.50 from its Operating Budget to WSHB to pay Kutak Rock as a subcontractor for legal services provided to the City by Kutak Rock to defend the City in this lawsuit.

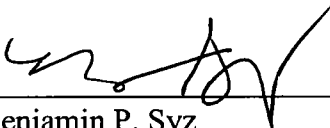
#### ACTION ITEMS

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

1. The retention of Kutak Rock as outside counsel is approved under Charter section 40 to provide specialized legal services in *United States of America v. City of San Diego*, United States District Court Case No. 23-cv-00541 LL BJC, for a term of up to five (5) years.
2. The Mayor or his designee is authorized to execute an agreement with Kutak Rock for outside counsel services from Public Liability Fund No. 720045, in an amount not to exceed \$500,000.00, under the terms and conditions set forth in the agreement.
3. The Chief Financial Officer is authorized to expend a total not to exceed amount of \$500,000.00 from Public Liability Fund No. 720045, to pay for legal services provided by Kutak Rock, contingent upon the adoption of the annual Appropriation Ordinance for the applicable fiscal year and the Chief Financial Officer furnishing one or more certificates certifying that funds for expenditure are, or will be, on deposit with the City Treasurer.

4. The Chief Financial Officer is authorized to expend additional funds from Public Liability Fund No. 720045, in the amount of \$174,908.50, to reimburse the Stormwater Department for any legal services that are paid by the Stormwater Department's Operating Budget after the filing of the lawsuit on March 27, 2023, to WSHB during litigation in *United States of America v. City of San Diego*, United States District Court Case No 23-cv-00541 LL BJC.

APPROVED: HEATHER FERBERT, City Attorney

By   
Benjamin P. Syz  
Senior Deputy City Attorney

December 17, 2024  
Or. Dept: City Attorney  
CC No. 3000017531

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on MAR 04 2025.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

Approved: 3/13/25  
(date)

  
TODD GLORIA, Mayor

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

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

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

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING

CC 3000017531  
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: \$240,000.00

Purpose: Authorize the Retention of Kutak Rock LLP as Outside Counsel in United States of America v. City of San Diego, 23-cv-00541 LL BJC

Date: February 11, 2025

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		\$240,000.00
TOTAL AMOUNT									\$240,000.00

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 MAR 04 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 MAR 14 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.

(Seal)

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

By *Linda Arvin*, Deputy  
For Connie Patterson

Office of the City Clerk, San Diego, California  
Resolution Number R- 316079