

RESOLUTION NUMBER R- 313170

DATE OF FINAL PASSAGE JUL 30 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH THE LAW FIRM OF COLANTUONO, HIGHSMITH & WHATLEY, PC TO PROVIDE CONTINUED LEGAL SERVICES AS PANEL OUTSIDE COUNSEL.

WHEREAS, the City of San Diego (City) issued Requests for Proposals (RFPs) in November 2017 and February 2018 seeking to retain panel outside counsel in seven areas of law on an as-needed basis in order to streamline the process for engaging outside counsel to avoid causing delays in City projects moving forward or putting the City at a disadvantage in litigation; and

WHEREAS, on July 20, 2018, the City Council approved the retention of 17 different law firms to represent the City in these seven areas of law, including the law firm of Colantuono, Highsmith & Whatley, PC (Law Firm) to represent the City in the areas of “Environmental Law, Land Use, and Litigation” and “Business and Financial Affairs”; and

WHEREAS, the area of “Business and Financial Affairs” relates to municipal issues that include the Public Records Act and amendments to the City Charter; and

WHEREAS, the Legal Services Agreement awarded to the Law Firm was in an amount not to exceed \$250,000; and

WHEREAS, the Law Firm will soon exceed the maximum not-to-exceed amount based on the current work that the Law Firm is performing for the City, which includes assisting in response to the numerous Public Records Act requests that the City has been receiving from a political candidate on the November 2020 ballot and his associates, defending the City in Public

Records Act litigation brought by this political candidate, and working with the City Auditor and City Council to draft proposed City Charter amendments to be placed on the November 2020 ballot that would affect the function and structure of the City Attorney's Office under Charter section 40; and

WHEREAS, the Law Firm's services are needed because the Office of the City Attorney lacks capacity to handle these matters currently and it is in the best interest of the City to avoid any appearance of a conflict of interest associated with these matters; and

WHEREAS, an increase of \$250,000 to the Legal Services Agreement, which would raise the total not-to-exceed amount from \$250,000 to \$500,000, is necessary to avoid a disruption in the Law Firm's services that would impede the current work that the Law Firm is performing which all have deadlines that must be met and will also allow the Law Firm to have capacity to take on additional legal work on an as-needed basis during the remainder of the five-year contract; and

WHEREAS, the Office of the City Attorney has prepared a proposed First Amendment to the Legal Services Agreement (First Amendment), which would increase the maximum contract expenditure for the Law Firm by \$250,000; and

WHEREAS, the Office of the City Attorney is not seeking funding for this action because the funding will come from funds already appropriated by the City Council to various City departments; and

WHEREAS, the Council's approval of the First Amendment is required pursuant to San Diego Municipal Code section 22.3207(a)(2) because the contract would exceed \$250,000 in a fiscal year; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. That the First Amendment to the Legal Services Agreement with Colantuono, Highsmith & Whatley, PC is approved, and the Mayor or his designee is authorized to execute this First Amendment for and on behalf of the City of San Diego in a total amount not to exceed \$500,000 (reflecting the \$250,000 increase, above the original \$250,000 contract amount).

2. That the Chief Financial Officer is authorized to expend an amount not to exceed \$500,000, for the purpose of executing the First Amendment to the Legal Services Agreement, with Colantuono, Highsmith & Whatley, PC, 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 necessary for expenditure are, or will be, on deposit with the City Treasurer.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Kenneth R. So
Kenneth R. So
Deputy City Attorney

KRS:soc
06/12/2020
Or.Dept:City Attorney
Doc. No.: 2400233

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 07/28/2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Connie Patterson
Deputy City Clerk

Approved: 7/29/20
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JUL 28 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<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"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 30 2020.

(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:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 313170