

RESOLUTION NUMBER R- 313595

DATE OF FINAL PASSAGE JUN 25 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE RETENTION OF DOWNEY BRAND LLP TO ADVISE AND REPRESENT WITH REGARDS TO THE CITY'S RESPONSE TO THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD'S TIME SCHEDULE ORDER NO. R9-2021-0028 FOR THE DRY WEATHER TOTAL MAXIMUM DAILY LOAD REQUIREMENTS FOR BACTERIA.

WHEREAS, on February 10, 2010, the San Diego Regional Quality Board (Regional Board) adopted Resolution No. R9-2010-0001, a Resolution Amending the Water Quality Control Plan for the San Diego Basin to Incorporate Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (Bacteria TMDLs); and

WHEREAS, the Regional Board issued the City a Regional Municipal Separate Storm Sewer System (MS4) Permit. Order No. R9-2013-0001 (MS4 Permit) on May 8, 2013, and amended on February 11, 2015, and November 18, 2015 which required compliance with the Bacteria TMDLs for dry weather by April 2021; and

WHEREAS, the Regional Board released a draft Tentative Time Schedule Order No. R9-2021-0028 (TSO) to the City and other MS4 co-permittees regarding their failure to comply with their MS4 Permit requirements regarding compliance with the dry weather Bacteria TMDLs; and

WHEREAS, due to 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 its response to the TSO; and

WHEREAS, on April 6, 2021, the Purchasing Agent approved the Request and Certification for Sole Source Procurement; and

WHEREAS, Downey Brand LLP has the necessary skills and experience to assist the City in this matter; and

WHEREAS, the anticipated amount for this engagement is \$125,000 to be paid from General Fund (100000) Stormwater Department (2114) Fund; NOW, THEREFORE,

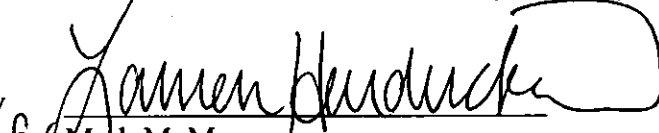
BE IT RESOLVED, by the Council of the City of San Diego that the City Attorney's Office is authorized to retain Downey Brand LLP as outside counsel to advise and represent the City regarding the response to the TSO in an amount not to exceed \$125,000.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego that the Chief Financial Officer or his designee is authorized to appropriate and expend an amount not to exceed \$125,000 from the General Fund (100000) Stormwater Department (2114) Fund, for the retention of Downey Brand as outside counsel, contingent upon the Chief Financial Officer first issuing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit in the City Treasury as follows:

- a. \$20,000 in Fiscal Year 2021
- b. \$60,000 in Fiscal Year 2022
- c. \$45,000 in Fiscal Year 2023

BE IT FURTHER RESOLVED, by the Council of the City of San Diego that the Chief Financial Officer is authorized, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
for Mark M. Mercer
Deputy City Attorney

MMM:nja
02/11/21
06/23/21 Cor. Copy
Or. Dept: City Attorney
Doc. No.: 2605482_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 15 2021.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6/25/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 15 2021, 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"/>
Monica Montgomery Steppe	<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"/>
Chris Cate	<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 JUN 25 2021.

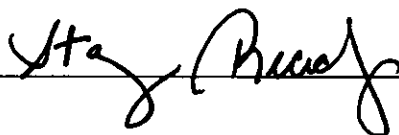
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California

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