

#5510
9/21/2021
(R-2022-77)

RESOLUTION NUMBER R- 313722

DATE OF FINAL PASSAGE SEP 23 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A THIRD AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF SAN DIEGO AND DEVANEY PATE MORRIS & CAMERON RELATED TO AS NEEDED LEGAL SERVICES FOR THE COMMISSION ON POLICE PRACTICES.

WHEREAS, on May 10, 2017, the City of San Diego (City) issued a Request For Proposals (RFP) for As Needed Outside Counsel for the City's Community Review Board on Police Practices (CRB), with the Solicitation Number of 10088485-17-A; and

WHEREAS, as a result of the RFP process, the City awarded a contract to the law firm of Devaney Pate Morris & Cameron (Contractor or Law Firm), with the contract taking effect on September 13, 2017 (Contract); and

WHEREAS, Article II, section 2.1 of the Contract, provides, in part, that the Contract is for a term of two years beginning on its effective date, and the City, in its sole discretion, may extend the Contract, by three one-year option periods; and

WHEREAS, Article III, section 3.1 of the Contract provides that the City will pay the Contractor for the performance of all services rendered in accordance with the Contract, in an amount not to exceed \$25,000 for Fiscal Year 2017, with future funding contingent upon allocation by the City Council in subsequent fiscal years; and

WHEREAS, effective December 16, 2019, the City and the Law Firm agreed to a First Amendment to the Contract, amending Article III, section 3.1, to provide that the City will pay the Contractor for the performance of all services rendered in accordance with the Contract, in an

amount not to exceed \$25,000 for Fiscal Year 2020, with future funding contingent upon the allocation by the City Council for subsequent fiscal years; and

WHEREAS, effective June 18, 2020, the City and the Law Firm agreed to a Second Amendment to the Contract, amending Article III, section 3.1, to provide that the City will pay the Contractor for performance of all services rendered in accordance with the Contract, in an amount not to exceed \$25,000 for Fiscal Year 2021, with future funding contingent upon the allocation by the City Council for subsequent fiscal years; and

WHEREAS, in Fiscal Year 2021, which ended June 30, 2021, the Law Firm billed the City \$28,985 for work performed under the Contract, including the First and Second Amendments, which is \$3,985 over the not-to-exceed amount of \$25,000 for Fiscal Year 2021, as agreed-upon and approved in the Second Amendment to the Contract; and

WHEREAS, the excess fees were, in part, due to additional legal work required of the Law Firm following City voter approval of Measure B on November 3, 2020, which amended the City Charter (Charter) to, among other things, add Charter section 41.2; and

WHEREAS, Charter section 41.2 replaced the CRB with the Commission on Police Practices (Commission), and the Contractor has provided legal assistance to the CRB, as it has transitioned to the Commission, and to the Office of the Commission on Police Practices, a new City department created by the City Council to provide administrative support to the Commission; and

WHEREAS, Commission staff is recommending that the City Council approve a Third Amendment to the Contract, to retroactively increase the amount that the Law Firm can be paid for Fiscal Year 2021; and

WHEREAS, staff is also requesting that the Contract be amended to replace CRB with the Commission, to be consistent with Charter section 41.2, and to authorize the Law Firm to provide services to the Commission in Fiscal Year 2022, in an amount not to exceed \$25,000, while the City completes a new RFP process for Commission counsel; and

WHEREAS, by the City's Fiscal Year 2022 Appropriation Ordinance (San Diego Ordinance O-21348 (June 30, 2021)), the City Council adopted the Fiscal Year 2022 budget and appropriated funds, including \$180,000 for legal services for the Office of the Commission on Police Practices for Fiscal Year 2022; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and authorizes the Mayor or designee to execute the Third Amendment to the Contract, to retroactively increase the approved Contract amount for Fiscal Year 2021 from \$25,000 to \$28,985; to replace references to CRB throughout the Contract with the name of the Commission; and to approve a Contract amount of not to exceed \$25,000 for Fiscal Year 2022.

BE IT FURTHER RESOLVED, that the Council authorizes the Chief Financial Officer to expend an amount not to exceed \$53,985 for Fiscal Year 2021 and Fiscal Year 2022, for the purposes of paying fees in accordance with the Third Amendment to the Contract, contingent upon the Chief Financial Officer furnishing one or more certificates that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Joan F. Dawson
Joan F. Dawson
Senior Deputy City Attorney

JFD:jep
September 16, 2021
Or.Dept: Office of the Commission on Police Practices
Doc. No.: 2761965

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 21 2021

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 9/23/21
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on SEP 21 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 SEP 23 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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 313722