

RESOLUTION NUMBER R- 313823

DATE OF FINAL PASSAGE DEC 17 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE FIRST AMENDMENT TO SOLE SOURCE AGREEMENT WITH SOMACH, SIMMONS AND DUNN TO PROVIDE LEGAL SERVICES IN SUPPORT OF THE SAN VICENTE ENERGY STORAGE FACILITY.

WHEREAS, the City of San Diego (City) and the San Diego County Water Authority (CWA) are jointly exploring the development of an energy storage facility near San Vicente Reservoir; and

WHEREAS, the City and CWA entered into an MOU to equally share consultant costs related to development of the San Vicente Energy Storage Facility (SVESF), a highly technical project within a highly regulated environment; and

WHEREAS, Somach, Simmons and Dunn (Firm) is providing specialized legal services related to hydropower project licensing and environmental permitting issues in support of the SVESF project, and they have consulted with the City's Public Utilities Department on matters related to the project since 2014 and this action will allow the City to continue to advance work on the SVESF project; and

WHEREAS, the Firm's services have proven to be invaluable to the City as Stuart Somach, the Lead Attorney under the Agreement, is a well-known expert in matters relating to California and interstate water law with experience in the U.S. Department of the Interior, the U.S. Department of Justice, and he has argued significant water cases before both the United States Supreme Court and the California Supreme Court; and

WHEREAS, the Public Utilities Department and the City Attorney's Office desire to amend the Somach, Simmons and Dunn Sole Source Agreement for an additional \$250,000 to

continue to have the benefit from Mr. Somach and his team's expertise on FERC regulations, litigation and protection of the City's water rights; and

WHEREAS, in February 2021 the Agreement for the ongoing legal work reached capacity, and PUD staff worked with P&C to obtain approval for accrued expenses while the Sole Source Agreement was being amended, and this amendment will fund anticipated future expenses as well as the expenses accrued while processing the amendment; NOW, THEREFORE,

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

1. That the Mayor, or his designee, is authorized to execute, for and on behalf of the City, the First Amendment to Sole Source Agreement with Somach, Simmons and Dunn for legal services related to the San Vicente Reservoir, in an amount to exceed \$250,000, bringing the total contract amount to \$650,000, under the terms and conditions set forth in the First Amendment to Agreement, on file in the Office of the City Clerk as Doc. No.

RR- **313823**.

2. That the Chief Financial Officer is authorized to expend an amount not to exceed \$250,000 from Fund 700011, Water Utility Operating Fund, for the purpose of executing this First Amendment to the Agreement, contingent upon the adoption of the Annual Appropriation Ordinance for the applicable fiscal year, and contingent upon 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/ Raymond C. Palmucci
Raymond C. Palmucci
Deputy City Attorney

RCP:cw
11/29/21
Or.Dept: Public Utilities Department
CC No.: N/A
Doc. No.: 2825155

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this
meeting of DEC 14 2021.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 12/17/21
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on DEC 14 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 DEC 17 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- **313823**