

#5500
12/14/2021

(R-2022-107)

RESOLUTION NUMBER R- 313853

DATE OF FINAL PASSAGE DEC 17 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE LEGAL SERVICES
AGREEMENT TO RETAIN QUINN EMANUEL URQUHART
& SULLIVAN AS OUTSIDE COUNSEL TO PROVIDE LEGAL
SERVICES RELATING TO LITIGATION MATTERS
INVOLVING THE 101 ASH STREET AND CIVIC CENTER
PLAZA PROPERTY TRANSACTIONS.

WHEREAS, the City of San Diego (City) entered into two separate lease purchase agreements involving two high rise buildings in downtown San Diego, one at 101 Ash Street (101 Ash Building) and the other at Civic Center Plaza at 1200 Third Avenue (CCP Building); and

WHEREAS, the City is currently embroiled in three different lawsuits involving these properties against various parties including the current owner and lessor of the 101 Ash Street building, the current owner and lessor of the CCP Building, the lender, the "volunteer" broker, contractors, and a taxpayer; and

WHEREAS, among other things, the City is seeking to invalidate the transactions involving the 101 Ash Building and CCP Building under various causes of action including Government Code section 1090 as a result of a conflict of interest involving the broker who alleged that he represented the City on a volunteer pro bono basis and failed to properly disclose that he was in reality being compensated by the parties negotiating against the City on these transactions; and

WHEREAS, the City has currently engaged outside panel counsel, the law firm of Schwartz, Semerdjian, Cauley & Evans LLP (Schwartz Semerdjian) to represent the City in these three litigation matters; and

WHEREAS, Schwartz Semerdjian needs additional assistance because the City is up against eight different parties which have employed eleven different law firms using thirty attorneys to litigate against the City on these matters; and

WHEREAS, it is not unusual on complex lawsuits of this magnitude and with hundreds of millions of dollars at stake to employ more than one law firm to handle such litigation; and

WHEREAS, the pursuit of claims under Government Code section 1090, particularly as it relates to complex real estate transactions, is a specialized area of the law requiring specific expertise and experience; and

WHEREAS, Quinn Emanuel has considerable experience in the subject matters at issue with the litigation matters involving the 101 Ash Building and CCP Building; and

WHEREAS, Quinn Emanuel is able to perform the requested services at an hourly rate substantially lower than the rates typically billed by the law firm; and

WHEREAS, Quinn Emanuel has worked closely with Schwartz Semerdjian on various complex litigation matters and has done so efficiently and effectively; and

WHEREAS, based on the foregoing, the Purchasing and Contracting Director has executed a sole source certification memo to proceed with retention of Quinn Emanuel because the City receives no competitive advantage by conducting a more formal competitive solicitation; and

WHEREAS, pursuant to San Diego City Charter Article 5, section 40, the City Council is empowered to employ outside counsel when such assistance or advice is necessary; and

WHEREAS, the amount of the contract with Quinn Emanuel (Legal Services Agreement) is for an amount not to exceed \$500,000, which requires City Council approval of the contract itself pursuant to San Diego Municipal Code section 22.3207(a); NOW, THEREFORE,

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

1. That the City Attorney's Office is authorized to retain Quinn Emanuel as outside counsel to provide legal services to the City on the 101 Ash Building and CCP Building litigation matters under a contract with an amount not to exceed \$500,000 for a term of up to five years.
2. That the contract to retain Quinn Emanuel is approved and the Mayor or his designee is authorized to execute the contract.
3. That the Chief Financial Officer or his designee is authorized to appropriate and expend an amount not to exceed \$500,000 from the Public Liability Fund to provide funds for the contract, contingent upon the adoption of the Appropriation Ordinance for the applicable Fiscal Year, and contingent upon the Chief Financial Officer first furnishing one or more certificates that the funds necessary are, or will be, on deposit in the City Treasury.

APPROVED: MARA W. ELLIOTT, City Attorney

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

KRS:soc
10/13/2021
Or.Dept:City Attorney
Doc. No.: 2771247

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: 12/14/21
(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
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