

100
4/5/2022

(R-2022-359)

RESOLUTION NUMBER R- 313994

DATE OF FINAL PASSAGE APR 12 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A CONTRACT BETWEEN THE CITY OF SAN DIEGO AND DUANE E. BENNETT, ATTORNEY AT LAW, TO PROVIDE AS-NEEDED OUTSIDE COUNSEL SERVICES TO THE OFFICE OF THE COMMISSION ON POLICE PRACTICES AND THE COMMISSION, ITSELF; AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT; AND AUTHORIZING THE CHIEF FINANCIAL OFFICER TO EXPEND FUNDS UNDER SPECIFIED CONDITIONS.

WHEREAS, in November 2020, City of San Diego (City) voters approved San Diego City Charter (Charter) section 41.2, which created the Commission on Police Practices (Commission) as an investigatory body of the City, independent of the Mayor, Police Department, and City Attorney; and

WHEREAS, the Commission has certain mandatory duties and discretionary powers, as described in the Charter; and

WHEREAS, the City Council (Council) may, by ordinance, mandate additional duties and authorize additional powers for the Commission, consistent with the Charter and applicable federal and state law; and

WHEREAS, the Council has created the Office of the Commission on Police Practices, which is headed by the Commission's Executive Director, and will include additional City staff once the Commission is fully operational; and

WHEREAS, in accordance with Charter section 41.2, the Commission must retain its own legal counsel, independent of the City Attorney, for legal support and advice in carrying out the Commission's duties and actions; and

WHEREAS, the Commission intends to hire a full-time City employee to serve as General Counsel to the Commission, once the Council has formally appointed Commission members and approved Commission rules and procedures; and

WHEREAS, until the General Counsel is hired, the Commission intends to use independent, outside counsel (Outside Counsel) employed through a City contract on an as-needed basis; and

WHEREAS, the Commission also intends to maintain a contract with Outside Counsel, for use on an ongoing, as-needed basis, once the General Counsel is hired and at the discretion of the General Counsel, the Commission, or its Executive Director or designee; and

WHEREAS, on or about October 14, 2021, the City issued a Request for Proposal (RFP) for as-needed Outside Counsel services for the Commission, and City staff determined that Duane E. Bennett, Attorney at Law, best met the evaluation criteria and standards to provide the Outside Counsel services; and

WHEREAS, under the proposed contract, Mr. Bennett will advise the Commission on all legal aspects of its work, including on matters involving the Commission's structure, operation, processes, and procedures; the Ralph M. Brown Act and applicable parliamentary procedure; the California Public Records Act; the California Public Safety Officers Procedural Bill of Rights Act; California peace officer personnel records issues; administrative law and procedure; and other matters as requested by the Commission, its Executive Director or designee, or its General Counsel; and

WHEREAS, the Council wishes to approve the proposed contract in an amount not to exceed \$800,000 for a term not to exceed five years from its effective date (Contract), authorize the Mayor to execute the Contract, and authorize the Chief Financial Officer to expend funds under specified conditions; NOW THEREFORE,

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

1. The Council approves the Contract between the City and Duane E. Bennett, Attorney at Law, to provide as-needed Outside Counsel services to the Office of the Commission on Police Practices and the Commission itself, in an amount not to exceed \$800,000 for a term not to exceed five years from the Contract's effective date.

2. The Council authorizes the Mayor to execute the Contract between the City and Duane E. Bennett, Attorney at Law, for the purposes described in this Resolution.

3. The Council authorizes the Chief Financial Officer to expend an amount not to exceed \$800,000 for a term not to exceed five years to fund the Contract between the City and Duane E. Bennett, Attorney at Law, for the purposes described in this Resolution, contingent upon the Chief Financial Officer furnishing one or more certificates certifying that funds necessary of expenditures 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:cm
March 10, 2022
Or.Dept: Office of the Commission on Police Practices
Doc. No. 2913869

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 05 2022

ELIZABETH S. MALAND,
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 4/12/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on APR 05 2022, 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 APR 12 2022.

(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

Resolution Number R- 313994