

#601
04/25/2022

(R-2022-440)
COR. COPY

RESOLUTION NUMBER R- 314078

DATE OF FINAL PASSAGE MAY 10 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SETTING FORTH THE COUNCIL'S POLICY DIRECTION RELATED TO A PROPOSED MEASURE TO AMEND THE CITY CHARTER TO ESTABLISH A PROCESS FOR RETENTION AND USE OF INDEPENDENT LEGAL COUNSEL BY THE OFFICE OF THE CITY AUDITOR AND AUDIT COMMITTEE AND DIRECTING THE CITY'S MANAGEMENT TEAM FOR LABOR RELATIONS TO MEET AND CONFER, AS REQUIRED BY THE MEYERS-MILIAS-BROWN ACT.

WHEREAS, San Diego City Charter (Charter) section 39.2 establishes the position of City Auditor for the City of San Diego (City), who conducts audits in accordance with an annual audit plan and performs other duties as provided by ordinance or general laws; and

WHEREAS, Charter section 39.2 also provides that the City Auditor may investigate any material claim of financial fraud, waste, or impropriety within any City department; and

WHEREAS, Charter section 39.1 establishes the Audit Committee as an independent body of the City, composed of two members of the City Council (Council) and three members of the public; and

WHEREAS, Charter section 39.1 provides that the Audit Committee has oversight responsibility regarding the City's auditing, internal controls, and any other financial or business practices required of the Committee by Charter; and

WHEREAS, under Charter section 39.1, the Audit Committee is responsible for directing and reviewing the work of the City Auditor, and the City Auditor must report directly to the Audit Committee; and

WHEREAS, Charter section 39.1 also provides that the Council may specify additional responsibilities and duties of the Audit Committee by ordinance as necessary to carry into effect the Charter provisions; and

WHEREAS, the duties and activities of the Audit Committee are further described by ordinance of the Council, codified in San Diego Municipal Code sections 26.1701 through 26.1711; and

WHEREAS, the Council has also established the Office of the City Auditor as a City department, as set forth in San Diego Municipal Code section 22.1801; and

WHEREAS, in January 2020, the City Auditor proposed an amendment to the Charter to allow the Office of the City Auditor to use legal counsel, independent of the Office of the City Attorney, in certain circumstances; and

WHEREAS, in 2020, the Audit Committee and the Council's Rules Committee supported the proposal, but the City was unable to timely complete the process required by the Meyers-Milias-Brown Act (MMBA), California's collective bargaining law applicable to the City as a public agency employer, before the November 2020 election; and

WHEREAS, on February 16, 2022, the Rules Committee voted to advance the proposed Charter amendment to the Council to reauthorize the meet and confer process and to modify the proposed Charter amendment to vest with the Audit Committee the sole power to deem independent legal counsel for the City Auditor in the City's best interests; and

WHEREAS, the Rules Committee also requested further legal review; and

WHEREAS, the Council has now considered the draft Charter amendment and wishes to proceed to the collective bargaining process; NOW THEREFORE,

BE IT RESOLVED, that the Council directs the City's management team for labor relations to engage in the meet and confer process on the mandatory subjects of bargaining related to the proposed measure to amend the Charter to establish a process for retention and use of independent legal counsel by the Office of the City Auditor and Audit Committee, which is on file in the Office of the City Clerk, as File No. RR- 314078, and the Council further directs the City's management team to return to the Council for a final determination on the proposed measure.

APPROVED: MARA W. ELLIOTT, City Attorney

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

JFD:cm
04/12/2022
04/21/2022 COR. COPY
Or.Dept: Office of the City Auditor
Doc. No. 2951590_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 25 2022.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(Note: This resolution was returned unsigned by the Mayor's Office to the Office of the City Clerk on May 10, 2022. Pursuant to the San Diego Charter Section 295(a)(2), the Mayor has 10 business days from the date the resolution was transmitted to sign or veto the resolution, said deadline being the close of business on May 10, 2022. Therefore, the date of expiration of that time shall be deemed the date of its final passage.)

Passed by the Council of The City of San Diego on APR 25 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input type="checkbox"/>	<input checked="" 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 checked="" 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 type="checkbox"/>	<input checked="" 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 MAY 10 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 Connie Patterson Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 314078