

#56
06/06/2023

(O-2023-144)

ORDINANCE NUMBER O- 21654 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 12 2023

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING A FIRST AMENDMENT TO THE AGREEMENT FOR LEGAL SERVICES WITH WOOD SMITH HENNING & BERMAN LLP IN THE FORMER NAVAL TRAINING CENTER BOAT CHANNEL MATTER, EXTENDING THE TERM OF THE AGREEMENT AND AUTHORIZING ADDITIONAL FUNDING FOR SUCH AMENDMENT.

WHEREAS, on April 24, 2018, pursuant to San Diego Resolution R-311707 (Apr. 25, 2018), the San Diego City Council (City Council) authorized the retention of Wood Smith Henning & Berman LLP (Law Firm) as outside counsel in connection with the former Naval Training Center (NTC) Boat Channel matter; and

WHEREAS, on June 27, 2018, pursuant to this City Council authorization, the City of San Diego and Law Firm executed an Agreement for Legal Services in an amount not to exceed \$250,000 (Agreement); and

WHEREAS, the Law Firm will soon exceed the maximum not to exceed amount set forth in the Agreement; and

WHEREAS, on March 27, 2023, the Department of the Navy filed a lawsuit against the City in this matter in federal court under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which is a complex and specialized area of law; and

WHEREAS, due to the legal complexity and magnitude of this matter, the Law Firm's expertise in CERCLA, and the Law Firm's knowledge of the facts and issues in this case, the City continues to require the Law Firm's legal services; and

WHEREAS, the City wishes to retain the Law Firm for an additional five years; and

WHEREAS, an increase of \$200,000 to the Agreement, which would raise the total not to exceed amount to \$450,000, is necessary to avoid a disruption in the Law Firm's services and to allow the Law Firm to continue its representation of the City; and

WHEREAS, once approved and executed, the First Amendment shall be effective retroactively to June 27, 2023; and

WHEREAS, under San Diego Charter section 99, no contract, agreement, or obligation extending for a period of more than five years may be authorized except by Ordinance approved by a two-thirds majority vote of the City Council; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

Section 1. That the First Amendment to the Agreement for Legal Services is approved and the Mayor or his designee is authorized to execute the First Amendment for and on behalf of the City with Wood Smith Henning & Berman LLP for an additional \$200,000, for a total Agreement amount not to exceed \$450,000, and to extend the Agreement for an additional five years, under the terms and conditions set forth in the First Amendment to the Agreement.

Section 2. That the Chief Financial Officer is authorized to expend an additional \$200,000, for a total amount not to exceed \$450,000 from General Fund 100000, Storm Water Department operating budget, for the purpose of executing the First Amendment to the Agreement with Law Firm, contingent upon the adoption of the Annual Appropriations Ordinance for the applicable Fiscal Year and the Chief Financial Officer first furnishing one or

more certificates certifying that funds necessary for the expenditure are, or will be, on deposit with the City Treasurer.

Section 3. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By Nicole M. Denow
Nicole M. Denow
Deputy City Attorney

NMD:cm
April 13, 2023
Or.Dept: Stormwater
Doc. No. 3277753

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 06 2023.

DIANA J.S. FUENTES
City Clerk

By Cornie Patterson
Deputy City Clerk

Approved: 6/12/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 06 2023, 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 JUN 12 2023

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.
By Connie Patterson Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAY 16 2023, and on JUN 12 2023

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.
By Connie Patterson Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21654