

(R-98-662)

RESOLUTION NUMBER R- 289689

ADOPTED ON FEB 02 1998

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO AUTHORIZING THE INDEMNIFICATION OF THE
ENTERPRISE COMMUNITY GOVERNANCE BOARD.

WHEREAS, The City of San Diego has established the Enterprise Community Governance Board (the "Board") to advise the Mayor and City Council, and City Manager, regarding implementation of the Enterprise Community Initiative; and

WHEREAS, the Board was established in accordance with the requirements of the Federal Empowerment Zone/Enterprise Community Initiative; and

WHEREAS, the Board has adopted bylaws which specify that its responsibilities include, but are not necessarily limited to the following:

1. Review and update of the Enterprise Community Strategic Plan as appropriate.
2. Review, evaluate, recommend or endorse proposals for federal funding that will impact or otherwise affect the Enterprise Community.
3. Review activities and programs of the Enterprise Community program.
4. Provide general advice to the City regarding the condition, needs, and resources of the Enterprise Community.

5. Make recommendations regarding future Enterprise Zone and Enterprise Community funding allocations.

6. Identify and develop leadership within the community.

WHEREAS, all members of the Board serve on a voluntary basis and devote countless hours of their time and expertise to assist the City with implementation of the Enterprise Community program; and

WHEREAS, the Council of The City of San Diego finds that the Board provides a valuable service to the City, and believes that it would be appropriate to indemnify, and provide legal representation as necessary to the Board and its members, under the conditions set out below; NOW, THEREFORE,

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

1. That except as hereinafter provided, the City of San Diego shall indemnify and the City Attorney shall defend the Enterprise Community Governance Board and its duly appointed members against any claim or action against the Board or a duly appointed member if all of the following circumstances exist:

A. The person is a duly appointed member of the Board;

B. The alleged act or omission occurred or was authorized during a lawful meeting of the Board or a subcommittee thereof, or it occurred during or as a result of some action properly authorized by the Board.

C. The alleged act or omission was within the reasonable scope of duties of the Board as described in its approved bylaws.

D. The Board or individual member has made a request in writing to the City for indemnification and defense within five (5) working days of having been served legal papers.

E. The Board or individual member has performed its, or his or her duties in good faith and with such care, including reasonable inquiry, as an ordinarily prudent person or persons in a like position would use under similar circumstances.

2. That the City may decline to represent the Board or a member thereof, if the Board or member does not reasonably cooperate in the defense of the claim or action, or if the Board or member acted or failed to act because of fraud, corruption, actual malice, or bad faith.

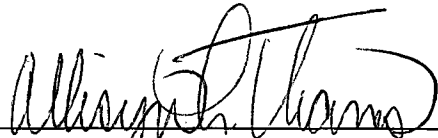
3. That in the event the City Manager, upon advice by the City Attorney, determines that the Board or a member thereof, is not entitled to indemnification, the City Attorney shall notify the Board or member within three (3) business days of receiving the request for indemnification.

4. That representation and indemnification shall not be provided to the Board or any member thereof in any administrative or judicial proceeding initiated by the Board or member against The City of San Diego, its agencies or representatives or any other party or organization, nor shall representation and indemnification be provided to the Board or members thereof against damages to any person or organization which are alleged to have resulted from the initiation of any administrative or judicial proceeding by the Board or its members.

5. That representation and indemnification shall not be provided to the Board or its members against a claim or judgment for punitive damages.

6. That this Resolution does not constitute an admission of the City that the Board is an official advisory board of the City, and the Board's members are officers, employees, or servants of the City.

APPROVED: CASEY GWINN, City Attorney

By 
Allisyn L. Thomas
Deputy City Attorney

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