

RESOLUTION NUMBER R- 301292

DATE OF FINAL PASSAGE MAR 15 2006

A RESOLUTION SETTING FORTH REASONS FOR
REFUSING TO PROVIDE A DEFENSE IN A CIVIL ACTION
FILED BY THE CITY OF SAN DIEGO AGAINST A FORMER
EMPLOYEE

WHEREAS, in a complaint dated December 13, 2005, the City of San Diego sued Tracy L. Means, the former Deputy Director of the Airports Division of the City's Real Estate Assets Department (*City of San Diego v. Tracy Means, et. al.*, San Diego Superior Court Case No. GIC 858344); and

WHEREAS, the lawsuit includes causes of action against Ms. Means to rescind illegally awarded public contracts, to recover money had and received, and for violations of the Unfair Competition Act and the False Claims Act; and

WHEREAS, Ms. Means has requested that the City provide a defense to lawsuit pursuant to California Government Code sections 825 and 995; and

WHEREAS, the City Council has determined that factors exist to decline to provide a defense to the action under California Government Code sections 995.2 and 995.4; NOW, THEREFORE;

BE IT RESOLVED, that the City Council finds that an inherent conflict of interest exists between the City of San Diego and former employee Tracy Means in that the City is a plaintiff in the action against Ms. Means in the lawsuit described above, and therefore, declines to provide a defense to Ms. Means under the exceptions provided by California Government Code sections 995.2 and 995.4.

BE IT FURTHER RESOLVED, that the City Council finds that the complaint contains allegations of fraud and corruption and, therefore, declines to provide a defense to Ms. Means under the exceptions provided in California Government Code section 995.2.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Catherine Steadley
for Sharon B. Spivak
Deputy City Attorney

SBS:CMB:jb
02/17/2006
Or.Dept: Atty.
R-2006-721(OPTION A)

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 07 2006

ELIZABETH S. MALAND
City Clerk

By E. Sanders
Deputy City Clerk

Approved: 3-15-06
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

MAR 07 2006

Passed by the Council of The City of San Diego on _____, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 15 2006

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Mary Cepeda*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number *R-301292*