

3/28/06  
#235

(R-2006-596)

RESOLUTION NUMBER R-301337

DATE OF FINAL PASSAGE APR 19 2006

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING ADDITIONAL EXPENDITURES TO PAY ATTORNEY FEES FOR THE REPRESENTATION OF CITY EMPLOYEES RELATED TO THEIR PARTICIPATION IN THE FINANCIAL DISCLOSURES INVESTIGATION.

WHEREAS, in February of 2004, the Securities and Exchange Commission and the United States Attorney's Office informed the City of San Diego [City] that they were undertaking investigations into certain financial disclosure practices by the City; and

WHEREAS, the District Attorney's Office has initiated its own investigation into the propriety of acts relating to the granting of pension benefits; and

WHEREAS, the City is also conducting its own internal investigations, and through retained counsel, has interviewed current and former City employees, including Council staff members, as part of its internal investigations. Those interviews were then made available to the federal and state investigating agencies; and

WHEREAS, these investigations are ongoing, with each agency requesting and/or issuing subpoenas requiring City employees to appear for interview and/or testimony. In order to facilitate the conduct of necessary interviews and testimony, and yet provide necessary advice to affected City employee witnesses, the City Council, acting pursuant to the discretion provided by

Government Code section 995.8, has determined that it is in the best interests of the City to provide independent representation to employees and staff members; and

WHEREAS, the cost allotted for the representation thus far was \$1,525,000, apportioned among a number of represented individuals, and appropriated as a result of six requests:

\$250,000 (AC 2401177) on June 17, 2004; \$75,000 (AC 2500664) on November 14, 2004; \$150,000 (AC 2500688) on January 25, 2005; \$200,000 (AC 2500802) on March 7, 2005; \$350,000 (AC 2501122) on June 28, 2005; and \$500,000 (AC 2600236) on October 11, 2005.

WHEREAS, over thirty current and former City employees have requested and/or retained outside legal counsel and will submit or have submitted bills to be reviewed and processed by the City Attorney's Office. These totals do not include elected officials, the Mayor, Council, and some of their staff; NOW THEREFORE,

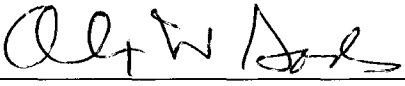
BE IT FURTHER RESOLVED, that the Council authorizes the additional expenditure of an amount not to exceed \$450,000, for the above-described purpose, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

BE IT FURTHER RESOLVED that the City Auditor shall be authorized to appropriate and transfer funds from the General Fund Unappropriated/Unallocated Reserves to the Public Liability Fund to meet these obligations.

BE IT FURTHER RESOLVED that the authorization for the above attorney's fees is to be suspended if criminal charges are brought against any past or present City employee, and that the authorization for the above attorney's fees is to be suspended if criminal charges are brought

against any past or present City employee, and that the City shall reserve its right to terminate the payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any past or present employee, or if a conviction is obtained.

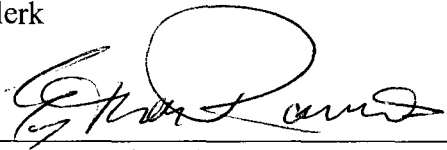
APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Maria Severson  
Deputy City Attorney

MS:ai  
3/16/06  
AC  
Or.Dept:CA  
R-2006-596

I hereby certify that the following ordinance was passed by the Council of the city of San Diego at its meeting of MAR 28 2006.

ELIZABETH S. MALAND  
City Clerk

By:   
Deputy City Clerk

Approved: 4.19.06  
(Date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

The City of San Diego  
**CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

**CERTIFICATE OF UNALLOTTED BALANCE**

AC 2600542

ORIGINATING

DEPT. NO.: 045

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT											

FUND OVERRIDE

**CERTIFICATION OF UNENCUMBERED BALANCE**

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the heret attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$450,000.00

Vendor: N/A

Purpose: To authorize the expenditures for Attorney's fees for the City of San Diego current and former employees related to the financial disclosures and pension investigation.

Date: January 18, 2006 By: [Signature] for Larry Tomanek

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
SEE ATTACHED											
TOTAL AMOUNT											

AC-361 (REV 2-92)

FUND OVERRIDE

*Original Aud Cert not available*

*301337*

AC 2600542

MAR 28 2006

Passed by the Council of The City of San Diego on MAR 28 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 19 2006

AUTHENTICATED BY:

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

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

(Seal)

By *Mary Cepeda*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 301337