

RESOLUTION NUMBER R- 302293

DATE OF FINAL PASSAGE JAN 19 2007

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 AND IN CONNECTION WITH SDCERS V. AGUIRRE, ET.AL., SDSC CASE NO. 841845.

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 investigation, and through retained counsel, has interviewed current and former City employees, including Council staff members, as part of its internal investigation. The information from the interviews was then made available to the federal and state investigating agencies; and

WHEREAS, several City employees have been interviewed and subpoenaed in connection with the litigation of SDCERS v. Aguirre, et al., SDSC, Case No. 841845; 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 costs allotted for the representation thus far was \$2,225,000, apportioned among a number of represented individuals, and appropriated as a result of six requests:

\$250,000 (AC 2401177, dated on June 17, 2004); \$75,000 (AC 2500664, dated November 14, 2004); \$150,000 (AC 2500688, dated January 25, 2005); \$200,000 (AC 2500802, dated March 7, 2005); \$350,000 (AC 2501122, June 28, 2005); \$500,000 (AC 2600236, dated October 11, 2005); \$450,000 (AC 2600542, dated January 18, 2006); and \$250,000 (AC 2600902, dated June 13, 2006); and

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 RESOLVED, that the Council authorizes the additional expenditure of an amount not to exceed \$750,000, for the above-described purpose, provided that the City Auditor and Comptroller first furnish 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 Council authorizes the City Auditor and Comptroller to allocate these expenditures across all funds using an allocation based on full-time equivalent salaries. That said allocation is attached to the Request for Council Action and hereby on file with the City Clerk.

BE IT FURTHER REVOLVED that newly-represented employees or former employees must make use of legal counsel already familiar with and engaged to assist other City clients on the financial disclosures investigation matters and/or SDCERS v. Aguirre, et al., SDSC, Case No. 841845, and that, in the event this requirement is not satisfactory to the employee or former employee, that individual shall be required to request a separate authorization for their retention of legal counsel.

BE IT FURTHER RESOLVED that the Council authorizes the City Auditor and Comptroller to appropriate and transfer \$534,825 from the General Fund Unallocated Reserve to the Public Liability Fund in order to meet the General Fund portion of the \$750,000 allocation.

BE IT FURTHER RESOLVED that the authorization for the above attorneys' 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 
Alex W. Sachs
Deputy City Attorney

AWS:mm
11/03/06
11/21/06 Corr.Copy
12/22/06 Corr.Copy 1
01/11/07 Corr. Copy 2
01/17/07 Revised
AC 2700396
Or.Dept:CA
R-2007-529

I hereby certify that the foregoing resolution was passed by the Council of the City of San Diego at its meeting of JAN 16 2007.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 1-19-07
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor