

RESOLUTION NUMBER R- 302891

DATE OF FINAL PASSAGE AUG 03 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.

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, these investigations are ongoing, with each agency requesting and/or issuing subpoenas requiring City employees to appear for interview and/or testimony. In addition, for the past six months, City employees were also responding to the SEC report. 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 funds allotted for the representation thus far were \$2,975,000, 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); \$250,000 (AC 2600902, dated June 13, 2006); and \$750,000 (AC 2700396, dated November 21, 2006); and

WHEREAS, over thirty (30) 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; and

WHEREAS, the current outstanding invoices are approximately \$150,000; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that an additional amount not to exceed \$150,000 is hereby authorized to pay attorney's fees for the representation of past and present City employees related to their participation in interviews and proceedings, including compliance with subpoenas, and in responding to the Securities and Exchange Commission [SEC] report, related to investigations by the SEC, United States Attorneys' Office, and the San Diego District Attorney's Office.


BE IT FURTHER RESOLVED that the Council authorizes the City Auditor and Comptroller to allocate and expend \$150,000 across all funds using an allocation based upon full-time equivalent salaries and authorizing the Auditor and Comptroller to appropriate and expend \$106,305 from the Public Liability Fund to cover the General Fund portion of the costs, to pay the above described attorney's fees 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 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 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 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



Todd Bradley
Deputy City Attorney

TB:bas
07/10/07
Or.Dept:CityAtty
R-2008-27

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 30 2007.

ELIZABETH S. MALAND
City Clerk

By *Mary Zumaya*
Deputy City Clerk

Approved: 8.3.07
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2800040

ORIGINATING

DEPT. NO.: 45

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 hereto 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: \$150,000.00

Vendor: N/A

Purpose: Authorizing an add'l amount not to exceed \$150,000 for the purpose of paying attorney's fees for the representation of past and present City employees in the ongoing investigation by the SEC, US Attorney's office, and the SD District Attorney's office.

Date: July 19, 2007 By: *Pam Walbert* 7/19/07

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										

FUND OVERRIDE

AC-361 (REV 2-92)

AC 2800040

R 302891

JUL 30 2007

Distribution of Expenses
Pensionable Salaries

Total Amount of invoice: \$ 150,000.00

Line	CY/PY	Fund	Dept	Department Name	Org	Account	Job Order	Percentage	Amount	
001	0	81140	82240	Litigation Expense-Public Liability		4151	082240	70.87%	106,305.00	
002	0	41400	730	Golf Course	100	4151	002150	0.87%	1,305.00	
003	0	41200	750	Environmental Protection	1001	4151	001002	0.20%	300.00	
004	0	41200	751	Waste Reduction & Enforcement	1002	4151	001500	0.41%	615.00	
005	0	41200	752	Refuse Disposal	1000	4151	000110	0.81%	1,215.00	
006	0	41200	753	Resource Management	010	4151	002000	0.28%	420.00	
007	0	41200	754	Collection Services	020	4151	004229	0.08%	120.00	
008	0	41210	755	Waste Reduction & Enforcement	1002	4151	001500	0.19%	285.00	
009	0	41210	757	Collection Services	020	4151	004229	0.97%	1,455.00	
010	0	41210	758	Environmental Protection	010	4151	001001	0.06%	90.00	
011	0	41210	759	Resource Management	010	4151	002010	0.19%	285.00	
012	0	41500	760	Water	163	4151	000163	8.28%	12,420.00	
013	0	41506	776	MWWD-Administration	455	4151	776260	9.53%	14,295.00	
014	0	41100	720	Airports	2000	4151	001101	0.18%	270.00	
015	0	50050	850	ECP-Water & Sewer Design	2000	4151	085010	1.25%	1,875.00	
016	0	50050	5431	E&CP Water Wastewater Field Eng.	100	4151	543100	0.61%	915.00	
017	0	41300	1311	Develop. Services-Management	1100	4151	001110	0.04%	60.00	
018	0	41300	1312	Develop. Services-Support Services	1250	4151	000100	0.43%	645.00	
019	0	41300	1313	Develop. Services-Division of Building	1310	4151	001310	1.55%	2,325.00	
020	0	41300	1314	Develop. Services-Inform & Appl. Ser	1410	4151	001110	0.91%	1,365.00	
021	0	41300	1316	Develop. Services-Land Development	1610	4151	001110	1.41%	2,115.00	
022	0	41300	1317	Develop. Services-Project Mgmt	1720	4151	001110	0.88%	1,320.00	
									100.00%	150,000.00

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