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RESOLUTION NUMBER R- 303277

DATE OF FINAL PASSAGE DEC 18 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 \$3,125,000, 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); \$750,000 (AC 2700396, dated November 21, 2006); and \$150,000 (AC 2800040, dated July 19, 2007).

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 \$307,000; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that an additional amount not to exceed \$425,000 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 \$425,000 across all funds using an allocation based upon full-time equivalent salaries and authorizing the Auditor and Comptroller to appropriate and expend \$314,075 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

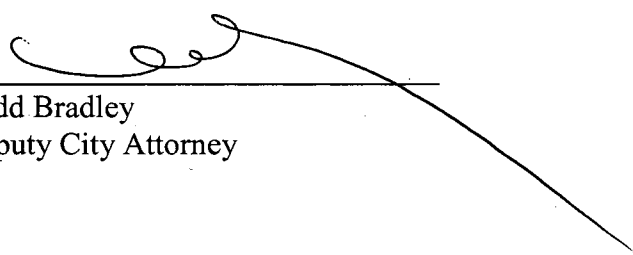
furnish one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

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
11/29/07
Or.Dept:CityAtty
R-2008-489

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~DEC 04 2007~~.

ELIZABETH S. MALAND
City Clerk

By Aara Richardson
Deputy City Clerk

Approved: 12.18.07
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor