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RESOLUTION NUMBER R- 303689

DATE OF FINAL PASSAGE MAY 20 2008

A RESOLUTION RELATING TO THE PROVISION OF A
DEFENSE TO FORMER EMPLOYEES IN CASE ENTITLED
*SECURITIES AND EXCHANGE COMMISSION V. MICHAEL T.
UBERUAGA, ET. AL.*

WHEREAS, on April 7, 2008, the Securities and Exchange Commission [SEC] filed a complaint for violations of the federal securities laws against former City employees Michael T. Uberuaga, Edward P. Ryan, Patricia Frazier, Teresa A. Webster, and Mary E. Vattimo; and

WHEREAS, the complaint alleges that these defendants were involved in false and misleading disclosures relating to the City's municipal securities offerings in 2002 and 2003. (See, U.S.D.C. Case No. CV 0621 DMS LSP); and

WHEREAS, the Report of the Audit Committee of the City of San Diego [Kroll Report] concluded that Deputy City Manager Patricia Frazier, City Treasurer Mary Vattimo, Auditor and Comptroller Ed Ryan, and Deputy Auditor and Comptroller Terri Webster, acted with wrongful intent, i.e., scienter as defined pursuant to Section 10(b) of the Securities Exchange Act of 1934, and that City Manager Michael Uberuaga was negligent in the fulfillment of his responsibilities to the City as to the City's financial disclosures; and

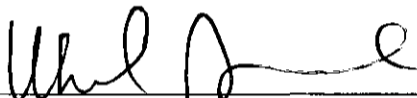
WHEREAS, it is necessary to determine whether the City, pursuant to California Government Code section 995, should provide a defense to these former employees to the above-described complaint filed by the SEC; NOW, THEREFORE;

BE IT RESOLVED, that the City Council finds that the complaint entitled *Securities and Exchange Commission v. Michael T. Uberuaga, Edward P. Ryan, Patricia Frazier, Teresa A.*

Webster, and Mary E. Vattimo, (U.S.D.C. Case No. CV 0621 DMS LSP) contains allegations of fraud against the defendants who are former City employees, and that such allegations are corroborated by the Report of the Audit Committee of the City of San Diego [Kroll Report] and, therefore, declines to provide a defense to former City employees Patricia Frazier, Mary Vattimo, Ed Ryan, and Terri Webster, under the exceptions provided in California Government Code section 995.2.

BE IT FURTHER RESOLVED, that with respect to providing a defense to former City employee Michael T. Uberuaga, the matter will be continued for 30 days at the City Attorney's request to allow additional time necessary to do a factual review of allegations.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Michael J. Aguirre
City Attorney

MJA:als
04/22/2008
05/13/2008 REV.
Or.Dept: Atty.

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 13 2008

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5-20-08
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor