

RESOLUTION NUMBER R- 303846DATE OF FINAL PASSAGE JUN 24 2008

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO CONTINUE THE AGREEMENT WITH LATHAM & WATKINS LLP IN AN ADDITIONAL AMOUNT UP TO \$75,000 TO PROVIDE LEGAL SERVICES IN CONNECTION WITH THE DEFENSE OF THE CASE OF MCGUIGAN V. CITY OF SAN DIEGO, AND NEWSOME, III, V. SAN DIEGO CITY EMPLOYEES RETIREMENT SYSTEM, ET AL., AND AUTHORIZING THE AUDITOR AND COMPTROLLER TO EXPEND RELATED FUNDS

WHEREAS, litigation continues on appeal in the case of *McGuigan v. City of San Diego*, San Diego Superior Court Case No. GIC 849883 [California Court of Appeal Case No. D050291] and *Newsome, III, v. San Diego City Employees Retirement System, et al.*, San Diego Superior Court Case No. GIC 856841; and

WHEREAS, the defense of the aforementioned case involves a highly specialized area of law; and

WHEREAS, the firm of Latham & Watkins has the necessary skills and experience to assist the City in defense of this matter; and

WHEREAS, the Council of the City of San Diego has been briefed on the status of this matter in duly-noticed Closed Session on January 22, 2008; and

WHEREAS, the Council determined to continue retention of Latham & Watkins to assist the City Attorney in defense of this matter; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is authorized to continue retention of Latham & Watkins LLP for the provision of legal services in *McGuigan v. City of San Diego*, San Diego Superior Court Case No. GIC 849883 [California Court of Appeal Case No. D050291] and *Newsome, III, v. San Diego City Employees Retirement*

(R-2008-847)

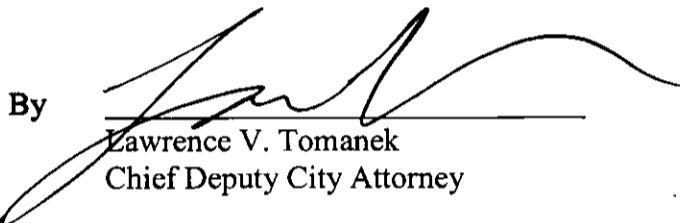
System, et al., San Diego Superior Court Case No. GIC 856841, in an additional amount not to exceed \$75,000.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller is authorized to allocate the cost of the agreement using the fiscal year 2008 FTE Cost Allocation Table.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller is authorized to expend up to \$55,425 from the Public Liability Fund on this matter.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller is authorized to expend up to \$19,575 from the Enterprise Funds.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Lawrence V. Tomanek  
Chief Deputy City Attorney

LVT:jdf  
03/28/2008  
Or.Dept:CITY ATTY  
R-2008-847

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 17 2008.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 6-24-08  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

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

000253

The City of San Diego  
 CER DATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE  
 ORIGINATING

AC 2800675  
 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: \$75,000.00

Vendor: Latham & Watkins, LLP

Purpose: Authorize the City Attorney to continue the agreement with Latham & Watkins for legal services as Outside Counsel for the sole purpose of representing the City in McGuigan v. City of San Diego. Authorize the City Comptroller to allocate and expend the cost using the FY2008 FTE Cost Allocation Table.

Date: March 26, 2008 By: *Pam Halbert* *3/26/08*  
 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							\$75,000.00
TOTAL AMOUNT										\$75,000.00

FUND OVERRIDE

AC-361 (REV 2-92)

AC 2800675

R 303846

JUN 17 2008

2008 FTE Allocation W/O MADS

Total Amount of AC/DP/Invoice: **\$ 75,000.00**

Line	CY/PY	Fund	Dept	Department Name	Org	Account	Job Order	Percentage	Amount
001	0	81140	81140	Public Liability	3501	4151	81141	73.90%	55,425.00
002	0	41400	730	Golf Course	100	4151	002150	0.89%	667.50
003	0	41200	750	Environmental Protection	1001	4151	001002	0.07%	52.50
004	0	41200	751	Waste Reduction & Enforcement	1002	4151	001500	0.35%	262.50
005	0	41200	752	Refuse Disposal	1000	4151	000110	0.77%	577.50
006	0	41200	753	Resource Management	010	4151	002000	0.16%	120.00
007	0	41200	754	Collection Services	020	4151	004229	0.08%	60.00
008	0	41210	755	Waste Reduction & Enforcement	1002	4151	001500	0.15%	112.50
009	0	41210	757	Collection Services	020	4151	004229	0.98%	735.00
010	0	41210	758	Environmental Protection	010	4151	001001	0.03%	22.50
011	0	41210	759	Resource Management	010	4151	002010	0.12%	90.00
012	0	41500	760	Water	163	4151	000163	7.91%	5,932.50
013	0	41506	776	MWWWD-Administration	795	4151	776260	8.51%	6,382.50
014	0	41100	720	Airports	2000	4151	001101	0.18%	135.00
015	0	50050	850	ECP-Water & Sewer Design	2000	4151	085010	1.12%	840.00
016	0	50050	5431	E&CP Water Wastewater Field Eng.	100	4151	543100	0.42%	315.00
017	0	41300	1300	Developmental Service Enterprise	1111	4151	001110	4.36%	3,270.00
TOTAL								100.00%	<u>75,000.00</u>

R 303846

JUN 17 2008