



RESOLUTION NUMBER R- 304345

DATE OF FINAL PASSAGE NOV 24 2008

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO CONTINUE AN AGREEMENT WITH PAUL PLEVIN SULLIVAN & CONNAUGHTON, LLP IN AN ADDITIONAL AMOUNT UP TO \$150,000 TO PROVIDE LEGAL SERVICES IN CONNECTION WITH THE DEFENSE OF *JAMES M. CHAPIN AND PENNY L. CASTLEMAN V. OFFICE OF THE CITY ATTORNEY, CITY OF SAN DIEGO, ET AL.*, AND AUTHORIZING THE COMPTROLLER TO EXPEND RELATED FUNDS

WHEREAS, on or about October 10, 2005, James M. Chapin and Penny L. Castleman filed a complaint for wrongful constructive termination in the case titled *Chapin and Castleman v. Aguirre and City of San Diego*, Federal District Court, Southern District of California, Case No. 05 CV 1906 R (POR); and

WHEREAS, outside legal counsel was necessary to represent the City because the parties are former city employees and the complaint arises out of the actions allegedly taken by the City Attorney's Office and The City of San Diego; and

WHEREAS, the firm of Paul Plevin Sullivan & Connaughton, LLP has the necessary skills and experience to assist the City in defense of this matter within the required time frame; and

WHEREAS, for the defense against Penny L. Castleman initial representation was authorized for up to \$100,000 and has been paid from Contract No. C-13218 filed with the Office of the City Clerk on March 24, 2005.

WHEREAS, for the defense against James M. Chapin initial representation was authorized for up to \$100,000 and has been paid from Contract No. C-13318 filed with the Office of the City Clerk on June 27, 2005; and

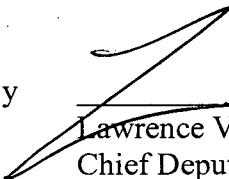
WHEREAS, On September 16, 2008, the City Council in Closed Session on Item CS-6, heard an update of *Chapin and Castleman v. Aguirre and City of San Diego, et al.*, Federal District Court Case No. 05CV1906 R (POR) and approved the case strategy and the continued retention of outside counsel. The motion was made by Council President Peters and the second by Council President Pro Tem Madaffer. The motion passed 7 to 1 with Councilmember Hueso voting "No"; NOW, THEREFORE;

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is authorized to continue the contract with Paul Plevin Sullivan & Connaughton, LLP for outside counsel services for an additional amount not to exceed \$150,000 to defend any and all claims by *James M. Chapin and Penny L. Castleman v. Office of The City Attorney, City of San Diego*.

BE IT FURTHER RESOLVED, that the City Comptroller is authorized to expend up to \$150,000 from the Public Liability Fund.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Lawrence V. Tomanek
Chief Deputy City Attorney

LVT:ca
10/16/08
Aud. Cert.: AC #2900308
Or.Dept:ATTY
R-2009-401

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 10 2008.

ELIZABETH S. MALAND
City Clerk

By *Julia Richard*
Deputy City Clerk

Approved: 11-24-08
(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

ORIGINATING

AC 2900308
 DEPT. _____
 NO. 045

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: Paul Plevin Sullivan & Connaughton, LLP

Purpose: Authorize the City Attorney to continue an agreement with the above stated vendor for outside counsel services for an add'l amount not to exceed \$150,000 for the case James M. Chapin & Penny L. Castleman vs. City of San Diego.
 Authorize the City Comptroller to expend the full amount from the Public Liability Fund (81140).

Date: October 15, 2008 By: *Pam Dallett* 10/15/08
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT	
001	0	81140	81140	3501	4141	081141				\$150,000.00	
TOTAL AMOUNT											\$150,000.00

FUND OVERRIDE

R 304345

NOV 10 2008