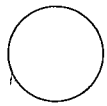


102

(R-2009-775)  
REV. COPY



RESOLUTION NUMBER R- 304640  
DATE OF FINAL PASSAGE FEB 23 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING ADDITIONAL EXPENDITURES TO PAY FEES AND COSTS FOR THE REPRESENTATION OF THE CITY RELATED TO MOUNT SOLEDAD LITIGATION.

WHEREAS, in the latter part of 2007, a natural event occurred in La Jolla in the vicinity of Soledad Mountain Road and Dirt View Drive which resulted in damage to private property and infrastructure owned by the City of San Diego [City]; and

WHEREAS, four separate lawsuits have been filed against the City with a total of 103 individual plaintiffs. Those lawsuits are as follows: *Crabbe, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00077405-CU-EI-CTL, filed on February 4, 2008; *Al-Quraini, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00080246-CU-EI-CTL, filed on March 19, 2008; *McCormick, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00082194-CU-EI-CTL, filed on April 17, 2008; and *Dyer v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00092648-CU-EI-CTL, filed on September 26, 2008; and

WHEREAS, on October 9, 2007, the City Council authorized the Mayor to retain outside legal counsel to represent the City in regard to the above-referenced lawsuits. As a result, the City entered into a contract with the law firm of Butz, Dunn & DeSantis, APC. [Contract]; and

WHEREAS, the City Council previously authorized payment of \$1,000,000 to Butz, Dunn & DeSantis under the Contract, approximately all of which has been paid; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his designee is hereby authorized to increase the Contract an additional amount not to exceed \$2,500,000 for a total amount not to exceed \$3,500,000 to pay attorney's fees and costs for the representation of the City in the above-referenced lawsuits.

BE IT FURTHER RESOLVED, that the City Council authorizes the City Comptroller to appropriate and expend the additional funds as reflected on the Full Time Equivalent schedule, which is attached hereto as Exhibit 1, for the purpose of funding the Contract.

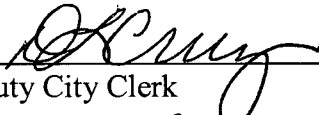
APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Glenn Spitzer  
Deputy City Attorney

GTS:als  
01/12/09  
01/29/09 REV.COPY  
Or.Dept:Mayor  
R-2009-775

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 17 2009.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 2-23-09  
(date)

  
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 2900432 (Revised)

DEPT. NO.: 010

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: \$2,500,000.00

Vendor: Butz Dunn & DeSantis, APC

Purpose: Authorize the Mayor to increase contract amount with above vendor for a total amount not to exceed \$3,500,000.00 related to litigation filed by the homeowner's in the vicinity of Soledad Mountain Rd and Desert View Dr. Authorize the City Comptroller to appropriate and expend \$2,500,000 per the FTE schedule for the purpose of funding the contract.

Date: January 29, 2009 By: *Pam Walker* 1/29/09  
 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 |      |         |           |                   |       |       |          | \$2,500,000.00 |
|                 |       |      |          |      |         |           |                   |       |       |          |                |
|                 |       |      |          |      |         |           |                   |       |       |          |                |
|                 |       |      |          |      |         |           |                   |       |       |          |                |
|                 |       |      |          |      |         |           |                   |       |       |          |                |
| TOTAL AMOUNT    |       |      |          |      |         |           |                   |       |       |          | \$2,500,000.00 |

FUND OVERRIDE

*R* 304640

FEB 17 2009

2009 FTE Allocation W/O MADS  
 Soledad Mountain Road and Desert View Drive

Total Amount of AC/DP/Invoice: \$ 2,500,000

| Line  | CY/PY | Fund  | Dept  | Department Name                  | Org  | Account | Job Order | Amount              |
|-------|-------|-------|-------|----------------------------------|------|---------|-----------|---------------------|
| 001   | 0     | 81140 | 81140 | Public Liability Fund            | --   | 4141    | 081141    | 1,983,500.00        |
| 011   | 0     | 41500 | 760   | Water                            | 163  | 4141    | 000163    | 194,000.00          |
| 012   | 0     | 41506 | 776   | MWWD-Administration              | 795  | 4141    | 776260    | 209,500.00          |
| 014   | 0     | 41300 | 1300  | Developmental Service Enterprise | 1100 | 4141    | 001110    | 113,000.00          |
| TOTAL |       |       |       |                                  |      |         |           | <u>2,500,000.00</u> |

R 304640