

RESOLUTION NUMBER R- 304773
DATE OF FINAL PASSAGE APR 08 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING ADDITIONAL EXPENDITURES FOR CONTINUED RETENTION OF LATHAM & WATKINS LLP WITH REGARD TO ONGOING LITIGATION IN THE CASE OF *MARCUS R. ABBE, ET AL. V. CITY OF SAN DIEGO*, USDC CASE NO. 05CV1629 DMS [SDPOA#2]

WHEREAS, on August 16, 2005 current and former San Diego Police Department officers filed a lawsuit against the City in the case of *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case No. 05cv1629 DMS [SDPOA#2]. The case was consolidated by the United States District Court with a related case, *Brett H. Burkett, et al. v. City of San Diego*, USDC Case No. 06cv538 DMS. There are approximately 1500 Plaintiffs; and

WHEREAS, on November 18, 2008, the City Council voted in Closed Session in the matter of *Marcus Abbe, et al. v. City of San Diego*, U.S. District Court Case No. 05cv1629 and 06cv538 DMS (RBB) [SDPOA #2] (Item CS-3) to approve the case strategy and to authorize continued retention of Latham & Watkins, LLP. The motion was made by Council President Scott Peters and seconded by Councilmember Toni Atkins. The motion passed 8 to 0 with all Councilmembers present; and


WHEREAS, the total amount requested for this case is an additional \$2,000,000 for Latham & Watkins and related litigation expenses, including expert fees; NOW

THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is authorized to continue the retention of Latham & Watkins, LLP, for an additional amount not to exceed \$2,000,000, to provide legal services in *Marcus Abbe, et al v. City of San Diego*, USDC Case Nos. 05cv1629 and 06cv538 DMS (RBB) and to pay for related litigation expenses.

BE IT FURTHER RESOLVED that the City Comptroller is authorized to expend an amount not to exceed \$2,000,000 from the Public Liability Fund, solely, and exclusively for the purpose of providing funds for the above described legal services and litigation expenses.

APPROVED: JAN I. GOLDSMITH, City Attorney

By: 
George F. Schaefer
Deputy City Attorney

GFS:ca
03/19/2009
Aud. Cert.: 2900664
Or. Dept: City Attorney
R-2009-833

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 30 2009.

ELIZABETH S. MALAND
City Clerk

By: 
Deputy City Clerk

Approved: 4-8-09
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

AC 2900684
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: _____

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: \$2,000,000.00

Vendor: Latham & Watkins, LLP

Purpose: Authorize continued retention, payment of invoices and future reserve funding for Latham & Watkins, LLP for legal services in Marcus R. Abbe et al. v. City of San Diego. Authorize the City Comptroller to expend \$2,000,000 from the Public Liability Fund (81140) to pay for the above expenditures.

Date: March 17, 2009 By: *Pam Hallist* 3/17/09

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					2,000,000.00
TOTAL											\$2,000,000.00

FUND OVERRIDE

AC-381 (REV 2-92)

AC 2900664

MAR 30 2009

R 304773