

MEET

101
6/2

RESOLUTION NUMBER R- 304944

DATE OF FINAL PASSAGE JUN 12 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING ADDITIONAL EXPENDITURES FOR LEGAL SERVICES OF LATHAM & WATKINS, LLP WITH REGARD TO ONGOING AND RELATED LITIGATION

WHEREAS, on August 23, 2005, the San Diego Police Officers' Association ("SDPOA") filed a lawsuit against the City of San Diego in United States District Court in the case of *San Diego Police Officers' Association, et al. v. Michael Aguirre, et al.*, U.S. District Court Case No. 05-cv-1581 H (POR) ("SDPOA 1A"); and

WHEREAS, the case raised a number of issues related to labor negotiations and retirement issues between the City of San Diego and the SDPOA, and the City engaged the law firm of Latham & Watkins, LLP to defend the City in that lawsuit; and

WHEREAS, after the District Court dismissed the lawsuit, the SDPOA appealed to the United States Court of Appeals for the Ninth Circuit, Ninth Circuit Case No. 07-560004, and the appeal is still pending; and

WHEREAS, the SDPOA filed the state law claims previously dismissed in federal court in the Superior Court of San Diego County in *San Diego Police Officers' Association, et al. v. City of San Diego, et al.*, Superior Court Case No. 37-2007-00075432 ("SDPOA 1B"); and

WHEREAS, current and former San Diego Police Officers also individually filed the same federal and state law claims in the United States District Court in *Erica Aaron, et al. v. City of San Diego, et al.*, U.S. District Court Case No. 06cv1451 H (POR) ("SDPOA 3A"), and the City also engaged the law firm of Latham and Watkins to defend it in that case; and

WHEREASE, after the District Court dismissed that lawsuit, two groups of the same plaintiffs filed separate lawsuits with the state law claims previously dismissed in federal court in the Superior Court of San Diego County in the following cases: *Erica Aaron, et al. v. City of*

San Diego, et. al., Superior Court Case No. 37-2008-00093078 (“SDPOA 3B”); and *Mark S. Annis, et al. v. City of San Diego, et al.*, Superior Court Case No. 37-2008-00092949 (“SDPOA 3C”); and


WHEREAS, on February 24, 2009, the City Council, with all Councilmembers present, voted 8-0 in Closed Session to authorize continued retention of Latham & Watkins, LLP in the defense of the City in these cases; and

WHEREAS, the total amount requested for these cases is an additional \$200,000 for legal services by Latham & Watkins, LLP and all related litigation expenses; 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 \$200,000, to provide legal services and pay for all litigation expenses in the following cases filed against the City: 1) *San Diego Police Officers’ Association, et al. v. Michael Aguirre, et al.*, U.S. District Court Case No. 05-cv-1581 H (POR) and Ninth Circuit Case No. 07-560004 (“SDPOA 1A”); 2) *San Diego Police Officers’ Association, et al. v. City of San Diego, et al.*, Superior Court Case No. 37-2007-00075432 (“SDPOA 1B”) ; 3) *Erica Aaron, et al. v. City of San Diego, et. al.*, U.S. District Court Case No. 06cv1451 H (POR) (“SDPOA 3A”) 4) *Erica Aaron, et al. v. City of San Diego, et al.*, Superior Court Case No. 37-2008-00093078 (“SDPOA 3B”); and 5) *Mark S. Annis, et al. v. City of San Diego, et al.*, Superior Court Case No. 37-2008-00092949 (“SDPOA 3C”); and

BE IT FURTHER RESOLVED that the City Comptroller is authorized to expend an amount not to exceed \$200,000 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
05/11/2009
Aud. Cert.: 2900764
Or. Dept: City Attorney
R-2009-1144

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 02 2009

ELIZABETH S. MALAND
City Clerk

By: 
Deputy City Clerk

Approved: 6.12.09
(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 2900764
 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: \$200,000.00

Vendor: Latham & Watkins, LLP

Purpose: Authorize continued retention, payment for invoices and future reserve funding for Latham & Watkins, LLP for legal services and litigation expenses in SDPOA v. Aguirre, et al. Authorize the City Comptroller to expend \$200,000.00 from the Public Liability Fund (81140) to pay the above expenditures.

Date: April 23, 2009 By: *Paul Hall* 4/23/09

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					200,000.00
TOTAL											\$200,000.00

FUND OVERRIDE

AC-361 (REV 2-92)

AC 2900764

JUN 02 2009

R-304944