FILE NO. 010202

[Contingent fee agreement in lead paint litigation.]

RESOLUTION NO.

190-01

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Resolution approving contingency fee agreement in County of Santa Clara, et al. v.

Atlantic Richfield Company, et al.; requiring report from the City Attorney.

WHEREAS, The City Attorney has instituted litigation on behalf of the City and County of San Francisco, the San Francisco Unified School District, the San Francisco Housing Authority, and the People of the State of California against the lead paint industry for monetary damages incurred by the City and County of San Francisco for public services related to the lead problem including services for children that have been poisoned by lead and to abate and remediate buildings that contain lead; and

WHEREAS, The litigation may require expenditure of considerable time and money and would benefit from the efficiency of having the assistance of outside counsel who are experienced in similar litigation relating to this and other products; and,

WHEREAS, The other municipal entities who have instituted similar litigation against the lead paint industry have retained outside counsel to assist them, generally on a contingent fee basis, in order to conserve scarce monetary and legal staff resources; and

WHEREAS, The law firms of Thornton & Naumes, LLP, Ness, Motley, Loadholdt, Richardson & Poole, and Wartnick, Chaber, Harowitz, Smith & Tigerman have considerable experience in this type of litigation, having previously been retained or consulted with various public entities, including the Attorney General of Rhode Island and various individual lead lawsuits including representation of a class of poisoned children in Ohio, to represent those entities in their lead paint litigation; and

WHEREAS, The above-mentioned law firms are also being retained to represent other California public entities in the lead paint litigation, including the San Francisco Unified School District and the San Francisco Housing Authority, with which the City and County of San

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Francisco will be jointly prosecuting <u>County of Santa Clara</u>, et al. v. Atlantic Richfield <u>Company et al.</u>, Santa Clara County Superior Court No. CV 788-657; and

WHEREAS, the City Attorney has approved the retainer of each of the above-mentioned firms as special counsel to co-counsel the lead paint litigation with the City Attorney on a contingent fee basis, whereby the law firms will advance all expenses and costs in the litigation, with the sole contingency upon which the above-mentioned law firms will receive compensation for their services and reimbursement of expenses being recovery and collection of moneys in the litigation by way of settlement or judgment, with the City Attorney retaining the right to add additional firms under the retainer agreement; and

WHEREAS, The contingent percentage set forth in the retainer agreement is the same as the typical contingent fee agreed to by other cities, counties and states which are actively involved in the lead paint litigation; and

WHEREAS, Approval by the Board of Supervisors of the contingent fee agreement is desirable; now, therefore, be it

RESOLVED, That the Board of Supervisors of the City and County of San Francisco hereby approves the Engagement and Contingency Agreement in County of Santa Clara, et al., v. Atlantic Richfield Company, et al., as contained in this Board file no. 010202; and, be it

FURTHER RESOLVED, That the City Attorney is required to provide periodic reports on the status of this litigation to the Board of Supervisors.



City and County of San Francisco Tails

City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

Resolution

File Number:

010202

Date Passed:

Resolution approving contingency fee agreement in County of Santa Clara, et al. v. Atlantic Richfield Company, et al.; requiring report from the City Attorney.

February 20, 2001 Board of Supervisors — CONTINUED

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Leno,

Newsom, Peskin, Sandoval, Yee

March 5, 2001 Board of Supervisors — ADOPTED

Ayes: 8 - Daly, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Yee

Noes: 3 - Ammiano, Gonzalez, Sandoval

File No. 010202

I hereby certify that the foregoing Resolution was ADOPTED on March 5, 2001 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. (Young

Clerk of the Board

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Date Approved

Mayor Willie L. Brown Jr.