

RESOLUTION NUMBER R- 294915

ADOPTED ON MAY 29 2001

WHEREAS, the defense of the legal issues raised in Border Business Park, Inc., and related entities, as set forth in the litigation of *Otay Acquisition v. City of San Diego*, San Diego Superior Court Case No. GIC 753247, and *National Enterprise v. City of San Diego*, San Diego Superior Court Case No. GIC 730011, and related matters, require extensive resources necessary to coordinate and research several substantive and procedural legal matters, as well as to prepare and respond to legal documentation; and

WHEREAS, Latham & Watkins, attorneys at law, have been retained by the City of San Diego, to defend the City in the matters of Border Business Park, Inc., and related litigation;

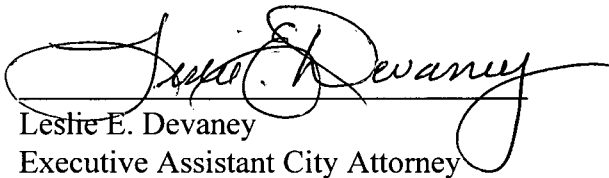
NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of said City, a Retainer Agreement for outside counsel serves in *Otay Acquisition v. City of San Diego*, San Diego Superior Court Case No. GIC 753247, *National Enterprise v. City of San Diego*, San Diego Superior Court Case No. GIC 730011, and related matters, under the terms and conditions set forth in the Retainer Agreement on file in the office of the City Clerk as Document No. RR- 294915, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the administering department deem necessary from time to time in order to carry out the purposes and intent of this project and agreement.

BE IT FURTHER RESOLVED, that the expenditure of an amount not to exceed \$1,600,000 from Liability Fund No. 81140, is hereby authorized, solely and exclusively for the purpose of providing funds for the above agreement.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller, upon advice from the administering department is hereby authorized to transfer excess funds, if any, to the appropriate reserves.

APPROVED: CASEY GWINN, City Attorney

By   
Leslie E. Devaney  
Executive Assistant City Attorney

KK:km  
4/25/01  
COR.COPY 5/18/01  
Or.Dept:E&DP  
R-2001-1440  
Form=auagr.frm

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

**CERTIFICATE OF UNALLOTTED BALANCE**

AC 2101137  
ORIGINATING DEPT. NO.: 81140

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 \$ 1,600,000.00

Vendor Latham & Watkins

Purpose To authorize the expenditure of funds for retainer agreement for outside counsel in the matters of

Otay Acquisition v. City, and National Enterprise v. City

Date 5/4/01 By: *Marin Chen*

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		4141	081140				\$1,600,000.00
TOTAL AMOUNT										\$1,600,000.00

FUND OVERRIDE