

RESOLUTION NUMBER R- 299422

ADOPTED ON JUL 12 2004

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 *Border Business Park, Inc. v. City of San Diego*, San Diego Superior Court Case No. 692794, 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; and

WHEREAS, the previous authorization for Latham & Watkins was in an amount not to exceed \$3,050,000; and

WHEREAS, additional services are needed from Latham & Watkins and the current authorization is insufficient for that purpose;

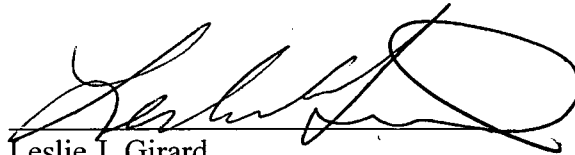
NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a second amendment to the Retainer Agreement by and between the City of San Diego and Latham & Watkins, for legal services 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 *Border Business Park, Inc. v. City of San Diego*, San Diego Superior Court Case No. 692794, be and it is hereby authorized.

BE IT FURTHER RESOLVED, that the expenditure of an amount not to exceed \$750,000 from Liability Fund No. 81140, is hereby authorized, solely and exclusively for the purpose of providing funds for the above agreement.

APPROVED: CASEY GWINN, City Attorney

By



Leslie J. Girard
Assistant City Attorney

LJG:km
06/30/04
Aud.Cert.:
Or.Dept:CityAtty
R-2005-22

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2500005

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: \$750,000.00

Vendor: Latham & Watkins

Purpose: Authorizing the amendment to the agreement between COSD and Latham & Watkins for outside counsel services in Border Business Park v. City and related matters, in an amount not to exceed an additional \$750,000.00, for a total contract amount not to exceed \$3,800,000.00

Date: July 1, 2004 By: Leonard J. Asfuentes

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	3501	4151	81140				\$750,000.00
TOTAL AMOUNT										\$750,000.00

FUND OVERRIDE

AC-361 (REV 2-92)

AC 2500005

R- 299422

JUL 12 2004