## RESOLUTION NUMBER R- 301053 ADOPTED ON NOV 2 1 2005

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. GIC 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 \$4,200,000; 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 third 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. GIC 692794, be and it is hereby authorized.

BE IT FURTHER RESOLVED, that the expenditure of an amount not to exceed \$250,000 from Liability Fund No. 81140, is hereby authorized, solely and exclusively for the purpose of providing funds for the above agreement.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By  $\frac{\Delta \gamma}{\text{Don Mo}}$ 

**Executive Assistant City Attorney** 

LJG:ai 09/23/05

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Or.Dept:ATTY R-2006-281

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

THEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution invalidable in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.  **Purpose:**    Purpose:			CERTIFICATE OF UNALLOTTED BALANCE						ANCE	AC	2600338
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Date:  By:  ADDITOR AND COMPTROLLER'S DEPARTMENT  ACCOUNT NO BORDER  ACCOUNT DESCRIPTION  FUND  DEPT ORG. ACCOUNT JOB ORDER  ACCOUNT BENFY EQUIP FACILITY  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 here tittached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do here truther certify, in conformity with the requirements of the Charter of the City of San Diego; and I do here truther certify, in conformity with the requirements of the Charter of the City of San Diego; and I do here truther certify, in conformity with the requirements of the Charter of the City of San Diego; and I do here truther certify, in conformity with the same make to be derawn, and that the said mone tow actually in the Treasury, to read to the appropriation for which the same are to be drawn, and that the said mone tow actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, and therefore the complex of the Charter of the City of San Diego; and I do here the count of the Treasury, to the credit of said appropriation of the Treasury, to the credit of said appropriation, and the the said mone tow actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, and the treasury of the come of the Charter of the City, S.D.S.C. Case No. GIC 753247; Habitorial Enterprises v. City, S.D.S.C. Case No. GIC 753247; Habitorial Enterprises v. City, S.D.S.C. Case No. GIC 753247; Additional Enterprises v. City, S.D.S.C. Case No. GIC 753247; Additional Enterprises v. City, S.D.S.C. Case No. GIC 753247; Additional Enterprises v. City, S.D.S.C. Case No. GIC 753247; Additional Enterprises v. City, S.D.S.C. Case No. GIC 753247; Additional Enterprises v. City, S.D.S.C. Case No. GIC 753247; Additional Enterprises v. City, S.D.	Amount	:						Fund:			
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