

105
(R-2006-992) 5/30/06

RESOLUTION NUMBER R- 301502

ADOPTED O. JUN - 7 2006

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 authorizations for Latham & Watkins were in an amount not to exceed \$5,000,000; and

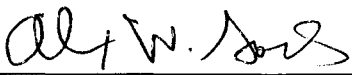
WHEREAS, additional services are needed from Latham & Watkins and the current authorization is insufficient for that purpose; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a fifth 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, is hereby authorized.

BE IT FURTHER RESOLVED, that the expenditure of an amount not to exceed \$1,500,000 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 is authorized to appropriate and transfer funds from the General Fund Unappropriated/Unallocated Reserves to the Public Liability Fund 81140 in order to meet these obligations.

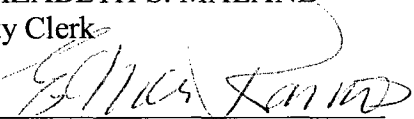
APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Alex W. Sachs
Deputy City Attorney

AWS:mm
05/16/06
Or.Dept:Atty
A/C No.2600827
R-2006- 992

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at its meeting of MAY 30 2006.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6-7-06
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2600827

ORIGINATING

DEPT. NO.: 042

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: _____

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

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: \$1,500,000.00

Vendor: Latham & Watkins

Purpose: To authorize the appropriation and transfer of funds from the General Fund Unappropriated/Unallocated Reserves to the Public Liability Fund for the fifth amendment to the contract with Latham & Watkins for outside council services relating to Otay Acquisition v. City.

Date: May 17, 2006

By: 
 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	100			9544					\$1,500,000.00
TOTAL AMOUNT										\$1,500,000.00

FUND OVERRIDE

AC-361 (REV 2-92)

AC 2600827

MAY 30 2006

R- 301502

MAY 30 2006

Passed by the Council of The City of San Diego on _____, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

JUN - 7 - 2006

Date of final passage _____

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Debbie Swenson-Cruz, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-301502