2007-587)

CORR.COPY

RESOLUTION NUMBER R- 302169
ADOPTED ON DEC 1 5 2006

WHEREAS, the defense of the legal issues raised in Border Business Park, Inc., and related entitles, 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, the law firm of Horvitz & Levy, attorneys at law, have been retained by the City of San Diego to provide services with respect to the appeal in the matters of Border Business Park, Inc., and related litigation; and

WHEREAS, the previous authorizations for Horvitz & Levy were in an amount not to exceed \$700,000; and

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

WHEREAS, this item was considered in Closed Session on November 14, 2006, and on that date, the Council voted unanimously (8-0) to authorize additional funding for the law firm of Horvitz & Levy as outside counsel in an amount not to exceed \$200,000. The Council further determined that the funding for this action was to come from the public liability fund. The

motion was made by Council President Peters with a second by Councilmember Hueso; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a fourth amendment to the Retainer Agreement by and between the City of San Diego and Horvitz & Levy, for appellate legal services in 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, for certain legal services is hereby authorized.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller be authorized to appropriate and transfer \$200,000 from the General Fund Unallocated Reserve to the Public Liability Fund to pay these expenditures.

BE IT FURTHER RESOLVED, that the expenditure of an additional amount not to exceed \$200,000 from Liability Fund 81140, is hereby authorized, solely and exclusively for the purpose of providing funds for the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

Pete De Lara

Deputy City Attorney

PD:mm 11/3/06 11/21/06 CORR.COPY 11/22/06 CORR. COPY

Or.Dept:Atty R-2007-587 MMS #4072

I hereby certify that the foregoing Resolution Diego, at this meeting of DEC - 5 2	tion was passed by the Council of the City of San
	ELIZABETH S. MALAND
	City Clerk
	By Deputy City Clerk
Approved: 12.15.04 (date)	JERRY SANDERS, Mayor
Vetoed:	IERRY SANDERS Mayor

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

## **CERTIFICATE OF UNALLOTTED BALANCE**

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K- 302169

DEC 0 5 2006

Passed by the Council of The City of San Diego		DEC 0	<b>5 2007</b> , by	the following vote:	
Council Members	Yeas	Nays	Not Present	Ineligible	
Scott Peters	$\mathbb{Z}_{\ell}$				
Kevin Faulconer					
Toni Atkins			· .	Ö	•
Anthony Young	. 🔯				
Brian Maienschein	$\mathbb{Z}_{1}$				
Donna Frye	$\mathbb{Z}$				
Jim Madaffer				$\Box$ .	
Ben Hueso	abla			. 🗆 .	seen.
Date of final passage DEC 15 2	2007				
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AUTHENTICATED BY:		Mayor o	JERRY SAN	IDERS Diego, California.	
AUTHENTICATED BT.		wayor o.	The City of San	Diego, Camorma.	
			ELIZABETH S.	MALAND	
(Seal)		City Clerk		n Diego, California	
<b>4</b> .	Ву	X Marie			_, Deputy
	· .				

Office of the City Clerk, San Diego, California

Resolution Number

R- 302169