(R-2008-1151)

RESOLUTION NUMBER R-303830 DATE OF FINAL PASSAGE _____JUN 1 3 2008

A RESOLUTION AUTHORIZING THE MAYOR TO EXTEND THE AGREEMENT WITH BUTZ DUNN & DESANTIS APC IN AN ADDITIONAL AMOUNT UP TO \$750,000 TO PROVIDE LEGAL SERVICES IN CONNECTION WITH THE DEFENSE OF THE CITY IN LITIGATION FILED BY HOMEOWNERS IN THE VICINITY OF SOLEDAD MOUNTAIN ROAD AND DESERT VIEW DRIVE AND AUTHORIZING THE AUDITOR AND COMPTROLLER TO EXPEND RELATED FUNDS

WHEREAS, in the latter part of 2007, a sudden natural event occurred in the vicinity of Soledad Mountain Road and Desert View Drive, which resulted in significant damage to City infrastructure and private property; and

WHEREAS, numerous claims and several lawsuits have been filed against the City, outside counsel is recommended, and

WHEREAS, due to conflicts of interest and the defense of the aforementioned matters involve a highly specialized area of law; and

WHEREAS, the firm of Butz Dunn & DeSantis APC has the necessary skills and experience to assist the City in defense of this matter; and

WHEREAS, the Council of the City of San Diego in duly-noticed Closed Session on October 9, 2007, on a motion by Councilmember Madaffer and seconded by Council President Peters voted 5 to 2, with Councilmember Maienschein absent, to authorize the Mayor to retain outside counsel to represent the City; and

WHEREAS, the Council determined to authorize the Mayor to extend the agreement with Butz Dunn & DeSantis APC to assist the City in defense of this matter; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor is authorized to extend the agreement with Butz Dunn & DeSantis APC for the provision of legal services in defense of the City in litigation filed by homeowners in the vicinity of Soledad Mountain Road and Desert View Drive, in an additional amount not to exceed \$750,000, for a cumulative authorization of \$1,000,000.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller is authorized to allocate the cost of the agreement using the Fiscal Year 2008 FTE Cost Allocation Table.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller is authorized to expend up to \$739,000 from the Public Liability Fund.

BE IT FURTHER RESOLVED, that the Auditor and Comptroller is authorized to expend up to \$261,000 from the Enterprise Funds.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

awrence V. Tomanek

Chief Deputy City Attorney

LVT:jdf 06/10/2008

Or.Dept:Risk Mgmt

R-2008-1151

303830

I hereby certify that the foregoing R Diego, at this meeting of JUN 1 0	esolution wa	s passed by the Council of the City of San
		ELIZABETH S. MALAND City Clerk
	10 mg/s	By Cluy Deputy City Clerk
Approved: 613.08 (date)		JERRY SANDERS, Mayor
Vetoed:(date)		JERRY SANDERS, Mayor

The City of San Diego CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE ORIGINATING

AC DEPT. 2800804

	IERI n is	available ir	Tille Treas	, u., , uu				•		
Amount	:						Fund:			
Dumana										
Purpose	e: .							·		
	•					_				
Date:		By:							: COMPTROU	FR'S DEPARTMENT
					ACC	OUNTING DATA				
ACCTG.	CY			T	T		OPERATION	<u> </u>		
LINE	PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	ACCOUNT	BENF/ EQ	IP FACILITY	AMOUNT
					 					
				 -						
										_
								TOTA	AMOUNT	
										FUND OVERRIDE
			solution, c	an be inc	urred without	the violatio	n of any o	of the prov	isions of th	agreement authorized by ne Charter of the City of e City of San Diego, that
San Dieg sufficient said con from whi anticipate	go; a t mo tract ich t ed to	and I do he oneys have t are actua the same a o come into	solution, ca ereby furthon been appointly in the fare to be of	an be incer certify, ropriated Treasury, drawn, areury, to the	urred without in conformity for the purpo or are antici	the violation with the received se of said compated to contain money n	n of any o quirements ontract, tha me into th ow actual	of the proving the Clark sufficier e Treasurily in the	isions of the parter of the t moneys to t, to the cr reasury, to	ne Charter of the City of e City of San Diego, that o meet the obligations of edit of the appropriation ogether with the moneys
San Dieg sufficient said con from whi	go; a t mo tract ich t ed to	and I do he oneys have t are actual the same a come into	solution, ca ereby furthon been appointly in the fare to be of	an be ince er certify, ropriated Treasury, drawn, ar sury, to the \$1	urred without in conformity for the purpo or are antici nd that the sa e credit of sai	the violation with the received se of said compated to contain money n	n of any o quirements ontract, tha me into th ow actual	of the proving the Clark sufficier e Treasurily in the	isions of the parter of the t moneys to t, to the cr reasury, to	ne Charter of the City of e City of San Diego, that o meet the obligations of edit of the appropriation ogether with the moneys
San Dieg sufficient said con from whi anticipate Not to Ex Vendor:	go; a t mo tract ich t ed to kcee	and I do he oneys have the same a come into ed: Butz Dunr Authorize the litigation file	solution, careby further been applially in the are to be controlled to the Treas as & DeSant he Mayor to be by home	an be incorrectify, ropriated Treasury, drawn, argury, to the street to execute a cowners in	urred without in conformity for the purpo or are anticind that the sale credit of said ,000,000.00	the violation with the received se of said corpated to corpaid money in dispropriation above vendo Soledad Mou	n of any of quirements ontract, that me into the low actual on, are other or for an amontain Road	of the provision of the Clat sufficient e Treasurily in the Treasu	exceed \$1,	ne Charter of the City of e City of San Diego, that o meet the obligations of edit of the appropriation ogether with the moneys
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose:	go; a t mo tract ich t ed to kcee	and I do he oneys have the same a come into ed: Butz Dunr Authorize the litigation file	solution, careby further been applially in the are to be controlled to the Treas as & DeSant he Mayor to appropriate to approp	an be incorrectly, ropriated Treasury, drawn, argury, to the sury, to the secute a cowners in triate and e	urred without in conformity for the purpo or are anticind that the sale credit of said ,000,000.00	the violation with the received seed said corpated to contain money in a propriation of the contains above vendors of the contains of the cont	n of any of quirements ontract, that me into the low actual on, are other or for an amontain Road	of the provision of the Clat sufficient e Treasurily in the Treasu	exceed \$1,	ne Charter of the City of e City of San Diego, that o meet the obligations of edit of the appropriation egether with the moneys ed.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose:	go; a t mo tract ich t ed to kcee	and I do he oneys have the same a come into ed: Butz Dunr Authorize the litigation file	solution, careby further been applially in the are to be controlled to the Treas as & DeSant he Mayor to appropriate to approp	an be incorrectify, ropriated Treasury, drawn, argury, to the street to execute a cowners in	urred without in conformity for the purpo or are anticind that the sale credit of said ,000,000.00	the violation with the received se of said corpated to corpaid money in dispropriation above vendo Soledad Mou	n of any of quirements ontract, that me into the low actual on, are other or for an amontain Road	of the provision of the Clark sufficient e Treasurally in the Treasura	exceed \$1,1	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to a Authorize the City alle to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose:	go; a t mo tract ich t ed to kcee	and I do he oneys have the same a come into ed: Butz Dunr Authorize the litigation file	solution, careby further been applially in the are to be controlled to the Treas as & DeSant he Mayor to appropriate to approp	an be incorrectly, ropriated Treasury, drawn, argury, to the sury, to the secute a cowners in triate and e	urred without in conformity for the purpor or are anticined that the sale credit of said 1,000,000.00	above vendo Soledad Mou	n of any of quirements ontract, that me into the low actual on, are other or for an amontain Road	of the provision of the Clark sufficient e Treasurally in the Treasura	exceed \$1,	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to a Authorize the City alle to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose: Date:	go; a moo tractich the decision to the decisio	and I do he oneys have the same a come into ed: Butz Dunr Authorize the litigation file	solution, careby further been applially in the are to be controlled to the Treas as & DeSant he Mayor to appropriate to approp	an be incorrectly, ropriated Treasury, drawn, argury, to the sury, to the secute a cowners in triate and e	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	the violation with the received seed said corpated to contain money in a propriation of the contains above vendors of the contains of the cont	n of any of quirements ontract, that me into the low actual on, are other or for an amontain Road	of the provision of the Clark sufficient e Treasurally in the Treasura	exceed \$1,1	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to a Authorize the City alle to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex	go; a moo tractich to the decision to the deci	and I do he oneys have the same a come into ed: Butz Dunr Authorize the litigation file	solution, careby further been applially in the are to be controlled to the Treas as & DeSant he Mayor to appropriate to approp	an be incer certify, ropriated Treasury, drawn, are sury, to the sury,	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	above vendo Soledad Mou	n of any of quirements ontract, that me into the own actual on, are other or for an amountain Road octed on the way.	of the provision of the Clark sufficient e Treasurally in the Treasura	exceed \$1,1 View Drive	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to e. Authorize the City ele to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex	go; a moo tractich the decision to the decisio	and I do he oneys have the same a come into ed: Butz Dunn Authorize the litigation file Comptrolle	solution, careby further been apply in the are to be continued by the Treas of the Mayor to appropriate of the May	an be incer certify, ropriated Treasury, drawn, are sury, to the sury,	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	above vendo Soledad Mou ,000, as refle	or for an amountain Road cted on the	of the provision of the Clark sufficient e Treasurely in the Control of the Contr	exceed \$1,1 View Drive	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to e. Authorize the City alle to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose: Date:	go; a moo tractich the decision to the decisio	and I do he oneys have the same a come into ed: Butz Dunn Authorize the litigation file Comptrolle	solution, careby further been apply in the are to be continued by the Treas of the Mayor to appropriate of the May	an be incer certify, ropriated Treasury, drawn, are sury, to the sury,	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	above vendo Soledad Mou ,000, as refle	or for an amountain Road cted on the	of the provision of the Clark sufficient e Treasurely in the Control of the Contr	exceed \$1,1 View Drive	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to e. Authorize the City ele to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose: Date:	go; a moo tractich the decision to the decisio	and I do he oneys have the same a come into ed: Butz Dunn Authorize the litigation file Comptrolle	solution, careby further been apply in the are to be continued by the Treas of the Mayor to appropriate of the May	an be incer certify, ropriated Treasury, drawn, are sury, to the sury,	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	above vendo Soledad Mou ,000, as refle	or for an amountain Road cted on the	of the provision of the Clark sufficient e Treasurely in the Control of the Contr	exceed \$1,1 View Drive	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to e. Authorize the City ele to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose: Date:	go; a moo tractich the decision to the decisio	and I do he oneys have the same a come into ed: Butz Dunn Authorize the litigation file Comptrolle	solution, careby further been apply in the are to be continued by the Treas of the Mayor to appropriate of the May	an be incer certify, ropriated Treasury, drawn, are sury, to the sury,	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	above vendo Soledad Mou ,000, as refle	or for an amountain Road cted on the	of the provision of the Clark sufficient e Treasurely in the Control of the Contr	exceed \$1,1 View Drive	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to e. Authorize the City ele to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose: Date:	go; a moo tractich the decision to the decisio	and I do he oneys have the same a come into ed: Butz Dunn Authorize the litigation file Comptrolle	solution, careby further been apply in the are to be continued by the Treas of the Mayor to appropriate of the May	an be incer certify, ropriated Treasury, drawn, are sury, to the sury,	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	above vendo Soledad Mou ,000, as refle	or for an amountain Road cted on the	of the provision of the Clark Sufficient e Treasure ly in the Treasure ly in the Treasure land Deservise und Deservise e FTE allocation and Deservise e FTE	exceed \$1,1 View Drive	ne Charter of the City of e City of San Diego, that to meet the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to e. Authorize the City ele to fund the contract.
San Dieg sufficient said con from whi anticipate Not to Ex Vendor: Purpose: Date:	go; at mootractich the discountry of the discoun	and I do he eneys have the same actual the same actual to come into act. Butz Dunrolle Authorize the litigation file FUND	solution, careby further been apply in the are to be continued by the Treas of the Mayor to appropriate of the May	an be incer certify, ropriated Treasury, drawn, are sury, to the sury,	urred without in conformity for the purpor or are anticined that the sale credit of said ,000,000.00 a contract with the vicinity of expend \$1,000	above vendo Soledad Mou ,000, as refle	or for an amountain Road cted on the	of the provision of the Clark Sufficient e Treasure ly in the Treasure ly in the Treasure land Deservise und Deservise e FTE allocation and Deservise e FTE	exceed \$1, to View Drive ation schedu	ne Charter of the City of e City of San Diego, that of the obligations of edit of the appropriation ogether with the moneys ed. 000,000 related to e. Authorize the City elle to fund the contract. Sau US ER'S DEPARTMENT AMOUNT \$1,000,000.00