RESOLUTION NUMBER R- 305046

DATE OF FINAL PASSAGE JUL 2 1 2009

RESOLUTION AUTHORIZING THE CONTINUED RETENTION, PAYMENT FOR INVOICES AND FUTURE RESERVE FUNDING FOR LATHAM & WATKINS, LLP FOR LEGAL SERVICES AND EXPENSES INCURRED IN DEFENSE OF THE CITY IN BORDER BUSINESS PARK, INC. V. CITY, SDSC CASE NO. GIC 692794; NATIONAL ENTERPRISES V. CITY, SDSC CASE NO. GIC 730011; AND OTAY ACQUISITION V CITY, SDSC CASE NO. GIC 753247 IN THE AMOUNT NOT TO EXCEED \$625,000.00

WHEREAS, since 1995, the City has defended itself in litigation surrounding an Otay Mesa industrial park initiated by business entities owned or controlled by developer Roque De La Fuente [De La Fuente]. The De La Fuente matters include: Border Business Park, Inc. v. City, SDSC Case No. GIC 692794; National Enterprises v. City, SDSC Case No. GIC 730011; and Otay Acquisition v City, SDSC Case No. GIC 753247; and

WHEREAS, in 2001, a jury awarded \$94,500,000 in damages to De La Fuente in the Border Business Park matter; and

WHEREAS, shortly thereafter, the law firm of Latham & Watkins, LLP was retained by the City to pursue post-trial motions and an appeal; and

WHEREAS, in 2006, the Court of Appeal reversed the entire Border judgment. The court ordered that judgment be entered for the City on the inverse condemnation claims, and ordered the remain breach of contract claim returned to the trial court; and

WHEREAS, upon return to the trial court, the City successfully moved to dismiss amended complaints in all three De La Fuente matters based on a failure to comply with the Government Claims Act. De La Fuente filed appeals in all three cases; and

(R-2009-1246)

WHEREAS, this matter seeks approval of continued retention, payment for invoices and

future reserve funding for Latham & Watkins, LLP for legal services and expenses incurred in

defense of the City in Border Business Park, Inc. v. City, SDSC Case No. GIC 692794; National

Enterprises v. City, SDSC Case No. GIC 730011; and Otay Acquisition v City, SDSC Case No.

GIC 753247; and

WHEREAS, this item was considered in Closed Session on February 24, 2009 and on

that date, the Council voted unanimously (8-0) to authorize additional funding for the law firm of

Latham & Watkins as outside counsel in an amount not to exceed \$625,000 to defend the City of

San Diego in the De La Fuente matters listed above. The Council further determined that the

funding for this action was to come from the Public Liability Fund 81140; NOW THEREFORE,

BE IT FURTHER RESOLVED, that the expenditure of an amount not to exceed

\$625,000 from Public Liability Fund No. 81140, is hereby authorized, solely and exclusively for

the purpose of providing funds for the above agreement.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

Deputy City Attorney

DJK:aml

June 4, 2009

Or.Dept:

R-2009

-PAGE 2 OF 3-

R-305046

I hereby certify that the foregoing Resolution was Diego, at this meeting of	passed by the Council of the City of San
	ELIZABETH S. MALAND City Clerk By Deputy City Clerk
Approved: 7.20-64 (date)	JERRY SANDERS, Mayor
Vetoed:(date)	JERRY SANDERS, Mayor

105

R- 305047

DATE OF FINAL PASSAGE JUL 2 1 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE SETTLEMENT AGREEMENT BETWEEN JULIANN KRECA AND THE CITY OF SAN DIEGO, IN THE SUM OF ONE HUNDRED AND TWENTY FIVE THOUSAND DOLLARS

WHEREAS, in Closed Session on May 12, 2009, by motion of Councilmember Young and seconded by Councilmember Emerald, the City Council voted unanimously, and approved the following motion:

To approve the settlement agreement of each and every claim against the City of San Diego, resulting from the injury claim of Juliann and Michael Kreca and the Estate of Michael T. Kreca, United States District Court Case No. 06cv1789 l (AJB), NOW THEREFORE,

BE IT RESOLVED, that the City Comptroller be and is hereby authorized to issue a check in the amount of, but not exceeding, \$125,000 made payable to Juliann and Michael Kreca and their attorney of record, Gerald Singleton, in full and final settlement of all claims.

BE IT FURTHER RESOLVED, that the City Council is hereby authorized to pay the sum of \$125,000 from the Public Liability Fund 81140.

APPROVED: JAN I. GOLDSMITH, City Attorney

David J. Karlin

Deputy City Attorney

DJK:aml 06/04/2009

Or.Dept: City Attorney

AC#

By

R-2009-1245

I hereby certify that the foregoing Resolution was p Diego, at this meeting of JUL 7 2009.	passed by the Council of the City of San
	ELIZABETH S. MALAND City Clerk By Clerk Deputy City Clerk
Approved: 7.2.09 (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

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DEPT.	
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