

RESOLUTION NUMBER R- 305757

DATE OF FINAL PASSAGE APR 15 2010

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING AMENDMENTS TO ENVIRONMENTAL CONSULTANT AGREEMENT, ENVIRONMENTAL LEGAL AGREEMENT, AND ENVIRONMENTAL LITIGATION AGREEMENT REGARDING THE CLEANUP OF CONTAMINATION TO THE QUALCOMM STADIUM AND MISSION VALLEY AQUIFER FROM THE MISSION VALLEY TERMINAL.

WHEREAS, pursuant to Cleanup and Abatement Order No. 92-01, the San Diego Regional Water Quality Control Board [Water Board] ordered the cleanup by responsible parties of soil and groundwater underlying the Qualcomm Stadium property which was contaminated from the release of petroleum products at the Mission Valley Terminal; and

WHEREAS, the City, as the owner of the Qualcomm Stadium property and the water rights in the underlying groundwater basin, has been actively involved in advocating its interests in the Water Board enforcement action against the discharger, including ensuring that the cleanup remains on schedule; and

WHEREAS, the City retained an environmental expert and special environmental counsel in connection with the City's efforts before the Water Board and potential related litigation the City may bring with respect to the contamination; and

WHEREAS, the City also retained special litigation counsel in connection with related litigation the City filed in 2007 against the discharger; and

WHEREAS, the enforcement action brought by the Water Board against the discharger to enforce cleanup of the contamination and the litigation filed by the City against the discharger are both ongoing; the City continues to require environmental expert services, special

environmental counsel services, and special litigation counsel services in connection with those matters; and additional funds are necessary to continue those services; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the Mayor or his designee is authorized to execute, for and on behalf of the City, a sixth amendment to the agreement with INTERA, Inc., for additional environmental consultant services in connection with the cleanup of contamination from the Mission Valley Terminal to the Qualcomm Stadium site and the Mission Valley Aquifer, in an additional amount not to exceed \$150,000 and under the terms and conditions set forth in the Sixth Amendment to Agreement Between the City of San Diego and INTERA, Inc., for Consulting Services.

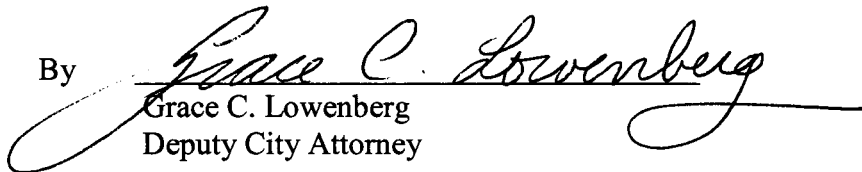
2. That the Mayor or his designee is further authorized to execute, for and on behalf of the City, a sixth amendment to the agreement with Opper & Varco, LLP, for continued environmental legal services and representation of the City before the Regional Water Quality Control Board in connection with the cleanup of contamination from the Mission Valley Terminal to the Qualcomm Stadium site and the Mission Valley Aquifer, in an additional amount not to exceed \$90,000 and under the terms and conditions set forth in the Sixth Amendment to Agreement Between the City of San Diego and Opper & Varco, LLP for Legal Services.

3. That the Mayor or his designee is further authorized to execute, for and on behalf of the City, a first amendment to the agreement with Tatro Tekosky Sadwick, LLP, for continued litigation support on behalf of the City associated with the contamination from the Mission Valley Terminal to the Qualcomm Stadium site and the Mission Valley Aquifer, in an additional amount not to exceed \$1,250,000 and under the terms and conditions set forth in the First Amendment to Agreement Between the City of San Diego and Tatro Tekosky and Sadwick LLP for Legal Services.

4. That the Chief Financial Officer is authorized to expend an amount not to exceed \$1,490,000, solely and exclusively for the above amendments, from the following funds in the following amounts: \$500,000 from the Mission Valley Terminal Settlement Fund No. 200410; \$490,000 from the Public Utilities Department Water Fund No. 700011; and \$500,000 from the General Fund No. 100000, contingent upon the City Comptroller first certifying that funds are available.

5. That the City Comptroller is authorized to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Grace C. Lowenberg
Deputy City Attorney

GCL:mb
03/29/10
C.Cert: 3000003181
C.Cert: 3000003183
C.Cert: 3000003184
Or.Dept:Water
R-2010-422

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at its meeting of APR 13 2010.

ELIZABETH S. MALAND, City Clerk

By 
Deputy City Clerk

(R-2010-422)

Approved: 4.15.10
(date)



JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

CC 3000003181

DEPT. NO.: 2013

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: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
TOTAL 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: \$1,250,000.00

Vendor: Tatro Tekosky Sadwick LLP

Purpose: To authorize the expenditure of funds for the first amendment to the retainer agreement for legal services in connection with the litigation over the contamination to the Qualcomm Stadium site and the Mission Valley Aquifer from the Mission Valley Terminal.

Date: March 25, 2010 By: Debra Oestreich

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
001	100000			OTHR-00000000-GG	512059	9912	9912001117		\$500,000.00
002	700011			OTHR-00000000-PR	512059	2013	2013140001		\$250,000.00
003	200410			OTHR-00000000-GG	330114*	9913	9913000011		\$500,000.00
TOTAL AMOUNT									\$1,250,000.00

CC-361 (REV 7-09)

* Note: Once the companion Ordinance is approved by City Council, the G/L Account will change to 512059

FUND OVERRIDE

CC 3000003181

R 305757

APR 13 2010

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

CC 3000003183

DEPT. NO. 2013

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: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
TOTAL 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: \$150,000.00

Vendor: INTERA Inc.

Purpose: To authorize the expenditure of funds for the sixth amendment to the agreement for environmental consultant services in connection with the clean up of contamination to the Qualcomm Stadium site and the Mission Valley Aquifer from the Mission Valley Terminal.

Date: March 25, 2010 By: Debra Oestreich Debra Oestreich

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
001	700011			OTHR-00000000-PR	512059	2013	2013140001		\$150,000.00
TOTAL AMOUNT									\$150,000.00

CC-361 (REV 7-09)

FUND OVERRIDE

CC 3000003183

R-305757

APR 13 2010

