RESOLUTION NUMBER R- 305757

DATE OF FINAL PASSAGE APR 1 5 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.

Lowenberg

APPROVED: JAN I. GOLDSMITH, City Attorney

Grace C. Lowenberg
Deputy City Attorney

GCL:mb 03/29/10

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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 \_\_\_\_\_\_.

ELIZABETH S. MALAND, City Clerk

Deputy City Clerk

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Approved:	4.15.10	12
	(date)	JERRY SANDERS, Mayor
Vetoed:		
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## The City of San Diego COMPTROLLER'S CERTIFICATE

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## The City of San Diego COMPTROLLER'S CERTIFICATE

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