

RESOLUTION NUMBER R- 306577

DATE OF FINAL PASSAGE FEB 09 2011

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING
AMENDMENT TO LEGAL SERVICES AGREEMENT
RELATED TO LITIGATION PERTAINING TO THE
CLEANUP OF CONTAMINATION TO THE QUALCOMM
STADIUM SITE AND TO THE 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 special litigation counsel in connection with related litigation the City filed in 2007 against the discharger; and

WHEREAS, the litigation filed by the City against the discharger is ongoing; the City continues to require special litigation counsel services in connection with this matter; 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. Authorize the execution of the second amendment to the retainer agreement between the City and Tatro Tekosky Sadwick, LLP (TTS) for an additional \$3.0 million for continued 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, \$1.5 million in Fiscal Year 2011 and \$1.5 million in Fiscal Year 2012. This increases the total agreement amount to \$4.75 million.

2. Authorize the Chief Financial Officer to expend a total of \$3.0 million from the following funds: \$1.5 million in Fiscal Year 2011 from Fund #700011- Public Utilities Department Water Fund and \$1.5 million in Fiscal Year 2012 from the General Fund #100000 – Citywide Program Expenditures Department contingent upon the approval of the Fiscal Year 2012 Appropriation Ordinance and Comptroller’s certification of fund availability; for the purpose of supporting federal court litigation efforts.

APPROVED:

JAN I. GOLDSMITH, City Attorney

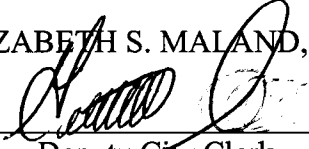
By



Jon E. Taylor
Deputy City Attorney

JET:bas
10/29/10
C.Cert: 3000003838
Or.Dept.: City Attorney
R-2011-414

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego,
at its meeting of FEB 1 2011.

ELIZABETH S. MALAND, City Clerk
By  _____
Deputy City Clerk

Approved: 2-9-11
(date)

 _____
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

**The City of San Diego
COMPTROLLER'S CERTIFICATE**

CERTIFICATE OF UNALLOTTED BALANCE

CC 300003838

BUSINESS AREA: 2000

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: Rob Ruscitto
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
									\$0.00
TOTAL AMOUNT									\$0.00

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: \$1,500,000.00

Vendor: Tatro Tekosky Sadwick, LLP (TTS)

Purpose: Authorize expenditure of funds for the Second Amendment to the Retainer Agreement for continued 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: December 22, 2010 By: Rob Ruscitto *RR*
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
01	700011			OTHR-00000000-WU	512059	2000	2000140001		\$1,500,000.00
TOTAL AMOUNT									\$1,500,000.00

CC-361 (REV 7-09)

FUND OVERRIDE

CC 300003838

FEB 01 2011

R-306577