

RESOLUTION NUMBER R- 309075

DATE OF FINAL PASSAGE JUL 07 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING AN AMENDMENT TO THE  
AGREEMENT WITH LUTH & TURLEY FOR AS-NEEDED  
WATER AND SEWER CLEAN-UP AND REMEDIATION  
SERVICES.

WHEREAS, on November 27, 2012, the Mayor and City Council authorized the City to enter into an agreement with Luth & Turley for as-needed remediation and clean-up services resulting from water main breaks and sewer backups pursuant to City Council Resolution R-307850; and

WHEREAS, the City has responded to more incidents of damage to private property caused water main breaks this contract year than anticipated; and

WHEREAS, the City needs to increase the funds authorized for this agreement by \$2 million to pay Luth & Turley in the event more water main breaks and sewer backups occur this contract year; and

WHEREAS, section 22.3019 of the San Diego Municipal Code requires State prevailing wage laws be followed on "contracts and task orders awarded, amended, or extended on or after January 1, 2014"; and

WHEREAS, the agreement with Luth & Turley was not advertised or bid with prevailing wage rates; and

WHEREAS, the State Department of Industrial Relations has determined that prevailing wage law extends to repairing damage to private property caused by sewage spills when paid for with public funds, pursuant to Public Works Case No. 2005-021 (January 10, 2006); and

WHEREAS, for purposes of State prevailing wage laws, repairing damage caused by water main breaks is analogous to repairing damage caused by sewage spills; and

WHEREAS, the City and Luth & Turley desire to increase the available funding for each of the last three contract years by \$500,000 and to increase the contract markup on labor from 15% to 25% to account for increased administrative costs Luth & Turley will incur from complying with State prevailing wage law; NOW, THEREFORE

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

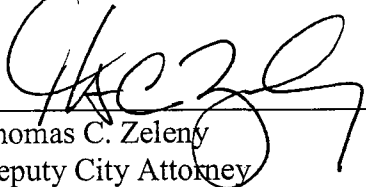
1. That the Mayor or his designee is authorized to execute, for and on behalf of the City, an amendment to the agreement with Luth & Turley, Inc. for as-needed remediation and clean-up services as a result of damage caused by water main breaks and sewer backups, under the terms and conditions set forth in the First Amendment to Memorandum of Agreement, on file with the City Clerk as Document No. RR- 309075

2. That the Chief Financial Officer is authorized to expend an additional amount not to exceed \$2,000,000 for the current contract year from Water Fund No. 700011 and Municipal Sewer Fund No. 700000, provided that the Chief Financial Officer first furnishes one or more certificates demonstrating that the funds for this expenditure are, or will be, on deposit in the City Treasury, and provided that the final allocation of the \$2,000,000 between the Water and Municipal Sewer Funds reflect the actual proportionate share of damages caused by water main breaks and sewer backups, respectively.

3. That the Chief Financial Officer is authorized to appropriate and expend an amount not to exceed \$2,500,000 for each subsequent contract year beginning in Fiscal Year 2015, from Water Fund No. 700011 and Municipal Sewer Fund No. 700000, provided that sufficient funding is included in the approved City budget and Appropriations Ordinance each fiscal year, that the Chief Financial Officer first furnishes one or more certificates demonstrating that the funds for

the expenditure are, or will be, on deposit in the City Treasury, and that the final allocation of expenditures between the Water and Municipal Sewer Funds reflect the actual proportionate share of damages caused by water main breaks and sewer backups, respectively.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Thomas C. Zeleny  
Deputy City Attorney

TCZ:mb  
06/11/14  
Or.Dept:Risk  
CC:3000007016  
Doc.No:803341

I hereby certify that the foregoing resolution was passed by the Council of the City of San Diego, at its meeting of JUN 28 2014.

ELIZABETH S. MALAND, City Clerk

By   
Deputy City Clerk

Approved: 7/7/14  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

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

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING CC 3000007016  
 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: \_\_\_\_\_

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: \$2,000,000.00

Vendor: Luth and Turley Inc.

Purpose: Amend the Contract for as needed remediation and clean up services from water main breaks and sewer back-ups.

Date: 11/10/14 By: *Amy Plinion* Amy Plinion  
 COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA |        |                |                |                 |             |               |             |     |                 |
|-----------------|--------|----------------|----------------|-----------------|-------------|---------------|-------------|-----|-----------------|
| Doc. Item       | Fund   | Funded Program | Internal Order | Functional Area | G/L Account | Business Area | Cost Center | WBS | Original Amount |
|                 | 700011 |                |                |                 | 512159      |               | 2013130001  |     | \$1,600,000.00  |
|                 | 700000 |                |                |                 | 512159      |               | 2011130001  |     | \$400,000.00    |
|                 |        |                |                |                 |             |               |             |     |                 |
|                 |        |                |                |                 |             |               |             |     |                 |
| TOTAL AMOUNT    |        |                |                |                 |             |               |             |     | \$2,000,000.00  |

Passed by the Council of The City of San Diego on JUN 23 2014, by the following vote:

| Councilmembers  | Yeas                                | Nays                     | Not Present                         | Recused                  |
|-----------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Sherri Lightner | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Ed Harris       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Todd Gloria     | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Myrtle Cole     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Mark Kersey     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Lorie Zapf      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Scott Sherman   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| David Alvarez   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Marti Emerald   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

Date of final passage JUL 07 2014

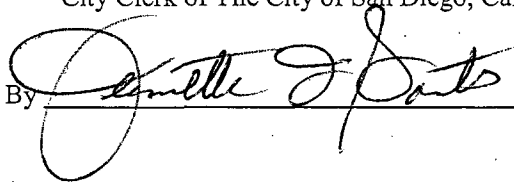
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

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|---|
| Office of the City Clerk, San Diego, California |
| Resolution Number R- <u>309075</u>              |