

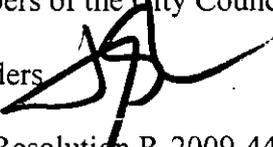


**OFFICE OF MAYOR JERRY SANDERS
CITY OF SAN DIEGO**

MEMORANDUM

DATE: November 13, 2008

TO: Honorable Council President Peters
Honorable Members of the City Council

FROM: Mayor Jerry Sanders 

SUBJECT: Veto of Council Resolution R-2009-441 (Authorizing the Retention of Dorn G. Bishop APC for Legal Services)

I am hereby vetoing Council Resolution R-2009-441 (Authorizing the retention of Dorn G. Bishop APC, for the case Shipyard Sediment Site California Water Quality Control Board Tentative Clean-Up and Abatement Order No. R9-2005-0126.)

In taking this action, I do not opine in any way on the capabilities of the Bishop legal firm or on the need for outside counsel in the matter.

cc: Andrea Tevlin, Independent Budget Analyst
Michael Aguirre, City Attorney
Liz Maland, City Clerk

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

000259

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE): **290025** 332
3. DATE: **12/09**
September 9, 2008

TO: CITY COUNCIL 2. FROM (ORIGINATING DEPARTMENT): CITY ATTORNEY

4. SUBJECT: RETENTION OF THE LAW OFFICES OF DORN G. BISHOP APC FOR LEGAL SERVICES FOR CASE, SHIPYARD SEDIMENT SITE CALIF. REGIONAL WATER QUALITY CONTROL BOARD TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2005-0126.

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.): Maria Severson (619) 533-5816, MS 59
6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.): Lawrence Tomanek (619) 533-5878 MS 59
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	81140				9. ADDITIONAL INFORMATION / ESTIMATED COST: Estimated costs for engagement not to exceed \$150,000.
DEPT.	82240				
ORGANIZATION					
OBJECT ACCOUNT	4141				
JOB ORDER	082240				
C.I.P. NUMBER					
AMOUNT	\$150,000				

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	CITY ATTORNEY	9/10/08	8	CFO, IF REQUIRED	MARY LEWIS	9/30/08
2	RISK MGMT	[Signature]	9-15-08	9	COO, IF REQUIRED	JAY GOLDSTONE	10/2/08
3	LIAISON	ED PLANK	9-18-08	10			
4	FINANCIAL MANAGEMENT	[Signature]	9/22/08	11	CITY ATTORNEY	LAWRENCE TOMANEK	10/8/08
5	COMPTROLLER	[Signature]	9/29/08		DOCKET COORD:	[Signature]	10/15/08
6					COUNCIL PRESIDENT	[Signature]	
7							

COUNCIL PRESIDENT
 SPOB CONSENT ADOPTION
 REFER TO: _____ COUNCIL DATE: 10/28/08

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

- Authorizing \$150,000 for retention agreement for outside counsel for insurance coverage review in the defense of the City in the case of Shipyard Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126.
- Authorizing the City Comptroller to expend up to \$150,000 from the Public Liability Fund for the coverage of The Law Offices of Dorn G. Bishop APC legal fees and costs related to this matter.

11A. STAFF RECOMMENDATIONS:

Adopt the Resolution

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): 8
 COMMUNITY AREA(S): N/A
 ENVIRONMENTAL IMPACT: THIS ACTION IS NOT A "PROJECT" SUBJECT TO CEQA
 HOUSING IMPACT: N/A
 OTHER ISSUES:

000261

EXECUTIVE SUMMARY SHEET
City of San Diego

DATE ISSUED: September 9, 2008

ATTENTION: COUNCIL PRESIDENT AND COUNCILMEMBERS

ORIGINATING DEPARTMENT: City Attorney

SUBJECT:

Contract with The Law Offices of Dorn G. Bishop APC for insurance coverage services in the matter entitled *Shipyards Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126*.

COUNCIL DISTRICT(S): 8

CONTACT/PHONE NUMBER:

Maria Severson, Chief Deputy City Attorney (619 533-5816)
Lawrence Tomanek, Chief Deputy City Attorney (619 236-6220)

REQUESTED ACTION:

Authorize the City Attorney to execute an Agreement on behalf of The City of San Diego to engage The Law Offices of Dorn G. Bishop APC as Outside Counsel for the sole purpose of reviewing insurance coverage issues for the City in the matter entitled *Shipyards Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126*.

STAFF RECOMMENDATION:

Approve the Resolution

EXECUTIVE SUMMARY:

This matter involves a Tentative Cleanup and Abatement Order issued by the California Regional Water Quality Control Board ("Board") relating to the area of San Diego Bay including and to the north of Chollas Creek. Dorn G. Bishop will review insurance coverage issues for the City.

FISCAL CONSIDERATIONS:

The City shall compensate The Law Offices of Dorn G. Bishop APC based on its hourly rates for consulting services. This Request has a not-to-exceed amount of \$150,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

In the Closed Session Meeting of July 22, 2008, the City Council voted on Item CS-3, entitled *Shipyards Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9 -2005-0126*, to approve retention of

000262

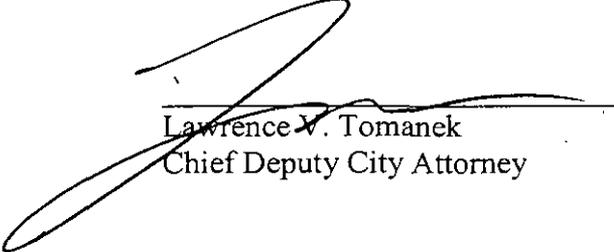
The Law Firm of Dorn G. Bishop APC to review insurance coverage in the matter in defense of the City. The motion was made by Council President Pro Tem Madaffer and the second by Councilmember Hueso. The motion passed 6 to 0 with Councilmembers Young and Maienschein absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The Law Firm of Dorn G. Bishop.



Lawrence V. Tomanek
Chief Deputy City Attorney

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

000263

CERTIFICATE OF UNALLOTTED BALANCE
ORIGINATING

AC 2900254
DEPT. NO.: 045

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: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	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: Law Offices of Dorn G. Bishop APC

Purpose: Authorizing \$150,000 for retention agreement for outside counsel for insurance coverage review in the defense of the City in the case of Shipyard Sediment Site CA Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126. Authorize the City Comptroller to expend up to \$150,000 from the Public Liability Fund.

Date: September 29, 2008 By: *Paul Wallut*
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT	
001	0	81140	82240		4141	082240					\$150,000.00
TOTAL AMOUNT											\$150,000.00

FUND OVERRIDE

AC 2900254

000265

RESOLUTION NUMBER R- 304319

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE CITY OF SAN DIEGO
AUTHORIZING THE RETENTION OF DORN G. BISHOP APC
FOR THE PURPOSE OF LEGAL SERVICES FOR CASE,
*SHIPYARD SEDIMENT SITE CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD TENTATIVE CLEAN-UP AND
ABATEMENT ORDER NO. R9-2005-0126*

WHEREAS, this matter involves a Tentative Cleanup and Abatement Order issued by the California Regional Water Quality Control Board relating to the area of San Diego Bay including and to the north of Chollas Creek;

WHEREAS, Council has determined it is necessary for outside legal counsel to review insurance coverage issues for the City;

WHEREAS, the Law Offices of Dorn G. Bishop APC has the necessary skills and experience to assist the City in defense of this matter; and

WHEREAS, the Council determined to retain Dorn G. Bishop APC to assist the City Attorney in the defense of this matter; and

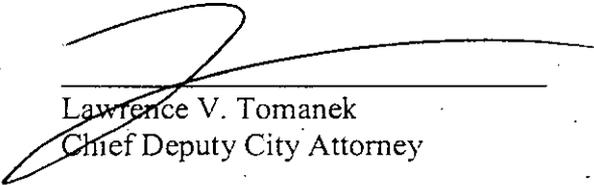
WHEREAS, the Council of the City of San Diego has been briefed on the status of this matter in duly-noticed Closed Session on July 22, 2008, the City Council voted on Item CS-3, authorizing the defense strategy and the retention of outside counsel in the case *Shipyard Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126*. The motion was made by Council President Pro Tem Madaffer and the second by Councilmember Hueso. The motion passed 6 to 0 with Councilmembers Young and Maienschein absent; NOW THEREFORE,

000266

BE IT RESOLVED, by the Council of The City of San Diego, that the City Attorney is authorized to retain The Law Offices of Dorn G. Bishop APC for services in the *Shipyard Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126* in an amount not to exceed \$150,000.

BE IT FURTHER RESOLVED, that the Comptroller is authorized to expend up to \$150,000 from the Public Liability Fund on this matter.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Lawrence V. Tomanek
Chief Deputy City Attorney

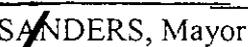
LVT:ca
10/07/08
Aud. Cert.: AC 2900254
Or.Dept:City Attorney
R-2009-441

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 28 2008.

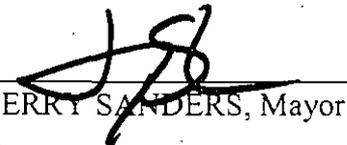
ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: _____
(date)


JERRY SANDERS, Mayor

Vetoed: 11-13-08
(date)


JERRY SANDERS, Mayor