

(R-90-564)

RESOLUTION NUMBER R- 274526

ADOPTED ON OCT 10 1989

WHEREAS, in Closed Session on September 20, 1989, the City Council, by the following vote: Yeas, Districts 2, 3, 6, 7, 8, and Mayor, Not Present, Districts 1, 4 and 5, approved the following; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego that the City Manager be and he is hereby authorized and empowered to pay the total sum of \$3,232,177.20 in partial settlement of each and every claim against The City of San Diego, its agents and employees, Superior Court Case No. 597192, Frank Acitelli, et al. v. City of San Diego, et al. resulting from the personal injuries to Frances Maday.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller be and he is hereby authorized to issue checks as follows:

- A. The first check in the amount of \$141,473.00 made payable to Allstate Life Insurance Company of America.
- B. The second check in the amount of \$2,800,000.00 made payable to Frank Acitelli and Florence Acitelli as conservators of Frances Maday and her attorney of record, Casey, Gerry, Casey, Westbrook, Reed & Hughes.
- C. A series of twelve monthly checks in equal amounts of \$24,225.35 made payable to Frank Acitelli and Florence Acitelli as trustees of Frances Maday on the first of each month commencing on November 1, 1989. The twelve payments will total the amount of \$290,704.20.

This is a partial settlement of all claims against The City of San Diego by Frances Maday as a result of the incident of January 1, 1988. In fiscal year 1991 the City Council will appropriate \$6,336,769.00 payable to Allstate Life Insurance Company of America for the purchase of an annuity providing for lifetime monthly payments to Frances Maday. The purchase of the annuity will constitute the complete settlement of the lawsuit and of all claims.

APPROVED: John W. Witt, City Attorney

By Eugene P. Gordon  
Eugene P. Gordon  
Chief Deputy City Attorney

EPG:tg:Lit.  
09/28/89  
Aud.Cert:9000342  
Or.Dept:Risk.Mgmt.  
R-90-564  
Form=r.claim

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

CERTIFICATE OF UNALLOTTED BALANCE      AC 9000342

ORIGINATING DEPT. NO.: 084

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 \_\_\_\_\_, 19\_\_\_\_ 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 moneys 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 \$ 3,232,177.20

Vendor Various

Purpose Authorizing the expenditure of funds in settlement of the personal injury claim of Frances Maday - AX88-0110-3391.

Date September 26, 19 89 By: *Kimberly J. Rice*

AUDITOR AND COMPTROLLER'S DEPARTMENT

| ACCOUNTING DATA |       |       |       |      |         |           |                   |            |          |                |
|-----------------|-------|-------|-------|------|---------|-----------|-------------------|------------|----------|----------------|
| ACCTG. LINE     | CY PY | FUND  | DEPT  | ORG. | ACCOUNT | JOB ORDER | OPERATION ACCOUNT | BENF/EQUIP | FACILITY | AMOUNT         |
| 1               |       | 81140 | 81140 |      | 4821    | 81141     |                   |            |          | \$3,232,177.20 |
|                 |       |       |       |      |         |           |                   |            |          |                |
|                 |       |       |       |      |         |           |                   |            |          |                |
|                 |       |       |       |      |         |           |                   |            |          |                |
| TOTAL AMOUNT    |       |       |       |      |         |           |                   |            |          | \$3,232,177.20 |

FUND OVERRIDE

*R* 274526

OCT 10 1989

#108

OCT 10 1989

Passed and adopted by the Council of The City of San Diego on....., by the following vote:

| Council Members        | Yeas                                | Nays                     | Not Present                         | Ineligible               |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Ron Roberts            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Gloria McColl          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| H. Wes Pratt           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Ed Struiksma           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| J. Bruce Henderson     | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Bob Filner             | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By *Maureen O'Connor*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-274526 Adopted OCT 10 1989

