RESOLUTION NUMBER R-___299625___

ADOPTED ON ___SEP. 1 3 2004___

WHEREAS, in Closed Session on July 26, 2004, the City Council, by the following vote:

Yeas, Districts 1, 2, 4, 5, 6, 7 and Mayor, Not Present, Districts 3 and 8 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 $286,668.48 in the settlement

of each and every claim against the City of San Diego, its agents and employees, in Superior

Court Case No. 820996, *John A. Whalen, Jr., et al. v. City of San Diego, et al.* resulting from the

flooding damage to Plaintiff's residence.

BE IT FURTHER RESOLVED, that out of the total sum of $286,668.48, the sum of

$26,668.48 was previously paid to Luth & Turley, the City's designated contractor for clean-up

and restoration of residences affected by backed-up sewage, for work it had performed prior to

being dismissed by Plaintiffs from completing the clean-up; and $9,423 was previously paid to

Plaintiffs for miscellaneous property damage. The balance of $260,000 is owed to Plaintiffs.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller be and he is

hereby authorized to issue one check in the amount of $260,000, made payable to JOHN A.

WHALEN, JR., an individual; SAUNDRA L. WHALEN, an individual; and THE WHALEN

FAMILY TRUST, in care of Timothy J. Tatro, Esq., TATRO & ZAMOYSKI, 12264 El Camino

Real, Suite 400, Del Mar, California, 92130, in full settlement of the lawsuit and of all claims.

BE IT FURTHER RESOLVED, that said funds are to be payable from Fund No. 81140,

Public Liability Reserve Fund.

APPROVED: CASEY GWINN, City Attorney

By _____
Matthew W. Cord
Deputy City Attorney

MWC:ccm
08/30/2004
Or.Dept:RiskMgmt.
R-2005-232
AC#2500198

R- 299625

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

AC _____ 2500198

ORIGINATING   DEPT. NO.: _____ 773

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: _____ $260,000.00 _____

Vendor: John A. Whalen

Purpose: To authorize the expenditure of funds to settle a personal property damage claim.

Date: _____ August 25, 2004 _____   By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY		AMOUNT
1	0	41506	773	220	4824	2213					$260,000.00
									TOTAL AMOUNT	$260,000.00

AC-361 (REV 2-92)

FUND OVERRIDE ☐

AC _____ 2500198

SEP 1 3 2004

R- 299625