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1/9/07

(R-2007-630)

RESOLUTION NUMBER R- 302267
DATE OF FINAL PASSAGE JAN 17 2007

A RESOLUTION OF THE CITY OF SAN DIEGO
AUTHORIZING SETTLEMENT OF THE PROPERTY
DAMAGE MATTER CLAIM OF BOAT DEPOT, INC.
AND SMCM PARTNERS, INC. V. CITY OF
SAN DIEGO IN THE SUM OF \$475,000

WHEREAS, in Closed Session on November 28, 2006, by motion of District 7 and second by District 2, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8; Nays, None ; Not Present, None , approved the following motion: settlement of storm related property damage claims of Boat Depot, Inc. and SMCM Partners, GP; NOW, THEREFORE,


BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his designee is hereby authorized and empowered to pay the total sum of \$475,000 in the settlement of each and every claim against the City of San Diego, its agents and employees, in Superior Court Case No. GIC 846472, *Boat Depot, Inc. and SMCM Partners, GP v. City of San Diego*, resulting from the storm drain related property damage claims of Boat Depot, Inc. and SMCM Partners, GP.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller is hereby authorized to issue two separate checks, the first check in the amount of \$420,000, made payable to SMCM Partners, GP and its attorney of record, Michael A. Gardiner; and the second check in the amount of \$55,000, made payable to Boat Depot, Inc. and its attorney of record, Mark S. Bagula, in full settlement of the lawsuit and of all claims.

(R-2007-630)

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

APPROVED: MICHAEL J. AGUIRRE, City Attorney

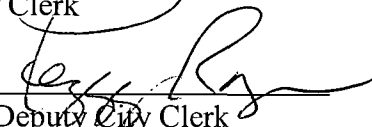
By 

William S. Donnell
Senior Deputy City Attorney

WD:slc
11/28/06
Aud.Cert: 2700348 and 2700349
Or.Dept :Risk Management
R-2007-630

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 09 2007.

ELIZABETH S. MALAND
City Clerk

By 

Deputy City Clerk

Approved: 1/17/07

(date)



JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

R-302267

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2700348

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: _____ 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: \$420,000.00

Vendor: SMCM Partners, GP & its attorney of record, Michael A. Gardiner

Purpose: Authorizing the expenditure for the settlement of each and every claim against the City, its agents and employees, resulting from the Property Damage Claims of SMCM Partners, GP.

Date: November 7, 2006 By: _____

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	81140	3302	4824	081141				\$420,000.00
TOTAL AMOUNT										\$420,000.00

FUND OVERRIDE

AC 2700348

R 302267

JAN 09 2007

