

RESOLUTION NUMBER R- **3 ii 389S**

DATE OF FINAL PASSAGE jy ^ % **6** 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING SETTLEMENT OF ALL PENDING CLAIMS OF THE MT. SOLEDAD MEMORIAL ASSOCIATION, INC., AGAINST THE CITY AND ASSIGNMENT OF CERTAIN FEDERAL EMINENT DOMAIN PROCEEDS

WHEREAS, the Mt. Soledad Memorial Association, Inc., paid to the City of San Diego \$106,000 [Purchase Money] for the purchase of the City's Mt. Soledad Memorial property [Memorial Property]; and

WHEREAS, the sale of the Memorial Property was voided by a federal court in the case *of Philip Paulson v. City of San Diego*, United States District Court Case No. 89cv00820 GT (POR); and

WHEREAS, the City has not yet refunded the Purchase Money to the Association; and

WHEREAS, the Association has a pending claim against the City for the Purchase Money, with interest, and the improvements it made on the Memorial Property, totaling \$1,211,030.57; and

WHEREAS, on August 14, 2006, Congress transferred title to the Memorial Property to the Federal Government by way of an immediate legislative taking, for which the City is entitled to be compensated. *See* the Preservation of Mt. Soledad Veterans Memorial Act, Pub. L. No. 109-272, § 2, 120 Stat. 770 (2006) [Preservation Act]; and

WHEREAS, as a result of settlement discussions between the City Attorney and the Association, the Association has agreed to release all pending claims it has against the City, including without limitation any claim to the Purchase Money, with interest, if the City will assign to the Association all of its interest in the proceeds it is entitled to receive pursuant to the Preservation Act; and

WHEREAS, the Council of the City of San Diego finds it to be on the best interests of The City of San Diego to enter into a settlement agreement with the Association; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Attorney is authorized, on behalf of The City of San Diego [City], to enter into a settlement agreement [Agreement] with the Mt. Soledad Memorial Association, Inc. [Association], whereby the Association releases all claims it may have against the City, including without limitation all monies [Purchase Money] paid by the Association to the City for the purchase of the City's Mt. Soledad Memorial property, including without limitation any claim to interest thereon, in return for the City's assignment to the Association of all federal condemnation proceeds the City is entitled to receive from the United States of America as a result of the Preservation of Mt. Soledad Veterans Memorial Act, Pub. L. No. 109-272, 120 Stat. 770 (2006); and

BE IT FURTHER EESOLVED, upon execution and delivery of the Agreement, the Auditor and Comptroller is authorized to release any restrictions on the Purchase Money held by the City, including without limitation any interest earned thereon.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

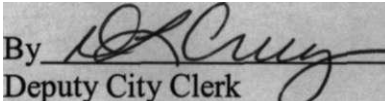
By:

George F. Schaefer
Deputy City Attorney


GFS:gb
05/29/2008
Aud. Cert.: N/A
Or.DeptCA
R-2008-1119

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting o f J(JH 2 4 ^8 .

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved:.
(date)


JERRY SANDERS, Mayor

Vetoed:
(date)

JERRY SANDERS, Mayor