

RESOLUTION NUMBER R- 304047
DATE OF FINAL PASSAGE SEP 11 2008

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO AUTHORIZING THE SETTLEMENT OF CLAIMS**

WHEREAS, in Closed Session on May 13, 2008, by motion of Council President Pro Tem Madaffer and second by Council President Peters, the City Council, by the following Vote Yeas, 5, Nays, None, with Councilmember Atkins recused, and Councilmembers Young and Maienschein absent, approved the following motion

WHEREAS, on August 2, 2002, Plaintiffs Cal Johnson and Jamie Johnson [Plaintiffs], filed suit against the City of San Diego, as well as City employees Shareen Carr and Morris Dye [collectively "City"], claiming that the City of San Diego should contribute in whole or in part to the remediation of "burn ash" found on property they purchased in 2000, and delays in the processing of development applications Plaintiffs brought suit in the Superior Court for the State of California located in San Diego The suit is styled *Johnson, et al v City of San Diego, et al*, San Diego Superior Court Case No GIC782977, consolidated with Case No GIC793609 ["The Litigation"], and

WHEREAS, the City in closed session on May 13, 2008 authorized settlement of the Litigation for an amount consistent with the amounts set forth below, NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council authorizes

1 The sum of \$150,000 to be paid from the public liability fund in settlement of each and every claim against the City, its agents and employees, arising from the Litigation

2 That the City Comptroller is authorized to issue (a) a check in the amount of \$75,000 payable to Cal Johnson and Kevin Barry McDermott - Attorney Client Trust Account, and (b) a check in the amount of \$75,000 payable to Jamie Johnson and the Offices of Douglas L. Applegate

APPROVED MICHAEL J AGUIRRE, City Attorney

By Robert J. Wallers
Robert J Wallers
Deputy City Attorney

RJW sb
08/01/08
08/25/08 COR COPY
AC 2900058
Or Dept Risk
R-2009-124

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP - 2 2008

ELIZABETH S MALAND
City Clerk

By Elizabeth S Maland
Deputy City Clerk

Approved 9-11-08
(date)

Jerry Sanders
JERRY SANDERS, Mayor

Vetoed _____
(date)

JERRY SANDERS, Mayor

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

CERTIFICATE OF UNALLOTTED BALANCE
ORIGINATING

AC 2900058
DEPT NO 45

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 Cal Johnson & Kevin Barry McDermott (\$75,000) Jamie Johnson & Offices of Douglas L. Applegate (\$75,000)

Purpose Authorize the Mayor & City Council to pay the total sum of \$150,000 in the settlement of each and every claim against the City, its agents and employees, resulting from the property damage claim to Cal Johnson et al
Authorize the Comptroller to issue two checks in the amount of \$75,000 each to the above stated vendors

Date July 25, 2008 By *Pam Hallert* 7/25/08
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	3501	4824	081141				\$150,000.00
TOTAL AMOUNT										\$150,000 00

AC-361 (REV 2-92)

FUND OVERRIDE

R 304047

SEP 02 2008

AC 2900058