

RESOLUTION NUMBER R- 309217

DATE OF FINAL PASSAGE OCT 02 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE SETTLEMENT AGREEMENT AMONG ROBERT J. SMOUSE, THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA, AND THE CITY OF SAN DIEGO

WHEREAS, on April 12, 2013, ROBERT J. SMOUSE filed suit against the City of San Diego [City] alleging personal injuries arising from an accident involving a City Fire Engine. Plaintiffs brought suit in the San Diego Superior Court. The suit is entitled *Robert J. Smouse v. City of San Diego, et al.* San Diego Superior Court case number 37-2013-00043998-CU-PA-CTL [Litigation]; and

WHEREAS, the Insurance Company of the State of Pennsylvania intervened in the lawsuit to assert a lien for workers' compensation benefits paid to Plaintiff Robert J. Smouse as a result of the accident; and

WHEREAS, in Closed Session on July 22, 2014, the City Council, by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8, and 9; Nays, Districts None; and absent, Districts None; authorized settlement of the Litigation for an amount consistent with the amounts set forth below and pursuant to such other terms more fully set forth in the Settlement Agreement;

NOW, THEREFORE,

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

1. Authorizing the Mayor or his designee to pay the sum of \$185,000 from the Public Liability Fund No. 720045, in settlement of each and every claim for damages, interest, costs,


and fees of any type, including attorney fees, against City of San Diego, its agents and employees, arising from the personal injury claim of *Robert J. Smouse v. City of San Diego, et al.*, San Diego Superior Court Case No. 37-2013-00043998-CU-PA-CTL.

2. Authorizing the Chief Financial Officer to appropriate and expend \$185,000 from the Public Liability Fund, Fund 720045, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

3. Authorizing the Comptroller to issue two checks totaling \$185,000, made payable to: (1) Insurance Company of the State of Pennsylvania for \$92,500; and (2) Robert Smouse and Robert Bruce Arnold, his attorney for \$92,500.

APPROVED: JAN I. GOLDSMITH, City Attorney

By:


George Schaefer
Deputy City Attorney

GFS:gcb
8/21/2014
Or.Dept: City Attorney
CC No. 3000007166
Doc. No.: 848289

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 16 2014.

ELIZABETH S. MALAND
City Clerk

By: 
Deputy City Clerk

Approved: 10/2/14
(date)



KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING DEPT. NO. 3000007166
 1515

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: _____

Purpose: _____

Date: _____ By: _____
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original 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: \$185,000.00

Vendor: Robert J. Smouse

Purpose: District Court Case No. 37-2013-00043998-CU-PA-CTL

Date: Aug 14, 2014 By: Holly Hernandez
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
01	720045			OTHR-00000000-GG	512004	1515	1515000011		\$185,000.00
TOTAL AMOUNT									\$185,000.00

Passed by the Council of The City of San Diego on SEP 16 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 02 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

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