

RESOLUTION NUMBER R- 309981

DATE OF FINAL PASSAGE SEP 24 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN
SCOTTSDALE INSURANCE COMPANY, EVEREST
INSURANCE COMPANY AND THE CITY OF SAN DIEGO

WHEREAS, on December 21, 2005, Scottsdale Insurance Company acknowledged its duty to defend the City in *De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al.*, San Diego Superior Court Case No. GIC821191 ("*De Anza*") under a reservation of rights;

WHEREAS, on May 15, 2008, Scottsdale filed the lawsuit known as *Scottsdale Insurance Company v. City of San Diego, et al.*, San Diego County Superior Court Case No. 37-2008-00083941-CU-IC-CTL ("*Declaratory Relief Lawsuit*") whereby Scottsdale seeks to withdrawal its defense of the City. Scottsdale also asserts claims of reimbursement for the costs of its defense of the City in the *De Anza* litigation;

WHEREAS, the terms of the settlement provide in part that Scottsdale Insurance Company will exhaust its remaining policy limits of \$2,197,500 in exchange for the City's payment of \$620,000 towards Scottsdale's claim for reimbursement, thereby requiring Scottsdale to pay a net amount to the City in the amount of \$1,577,500;

WHEREAS, the terms of the settlement provide in part that Everest Insurance Company will pay to the City its policy limit of \$1,200,000;

WHEREAS, in Closed Session on June 2, 2015, the City Council, by the following votes: Yeas, District(s) 1, 2, 3, 4, 5, 6, 7, 8, and 9; Nays, None; and absent, None/All Present, approved the Settlement;

WHEREAS, the City Council in closed session on June 2, 2015, authorized settlement of the Declaratory Relief Lawsuit for an amount consistent with the amounts set forth below;

NOW, THEREFORE,

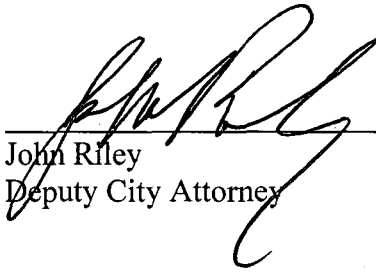
BE IT RESOLVED, by the Council of the City of San Diego that the Council:

1. Authorizes the Mayor or his designee to execute the settlement agreement between the City of San Diego, Scottsdale Insurance Company (“Scottsdale”) and Everest Insurance Company (“Everest”).
2. Authorizes the Mayor or his designee to pay the sum of \$620,000 to Scottsdale Insurance Company 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 claims related to the defense and indemnity obligations of Scottsdale and Everest in the lawsuits - *De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al.*, San Diego Superior Court, Case No. GIC821191 and *Aglio v. City of San Diego, et al.*, San Diego Superior Court Case No. 37-2009-81994-CU-EI described and alleged in part in the lawsuit of *Scottsdale Insurance Company v. City of San Diego, et al.*, San Diego County Superior Court Case No. 37-2008-00083941-CU-IC-CTL.

3. Authorizes the Chief Financial Officer to appropriate and expend \$620,000 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.

4. Authorizes the Comptroller to issue one check, in the amount of \$620,000, made payable to Scottsdale Insurance Company.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
John Riley
Deputy City Attorney

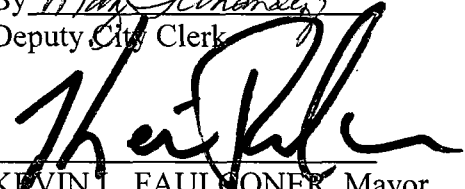
JR:aml
08/24/2015
Or.Dept: City Attorney
CC No. 3000008142
Doc. No.: 1098792
(10/07/2015 Cor. Copy)

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~SEP 15 2015~~ SEP 15 2015.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 9/23/15
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING CC 3000008142
 DEPT. NO.: 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: \$620,000.00

Vendor: Scottsdale Insurance Company & Everest Insurance Company

Purpose: De Anza Cove Mobile Home Park Lawsuits. Risk mangement File No. LP08-0130-0903

Date: September 1, 2015 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	512007	1515	1515000011		\$620,000.00
TOTAL AMOUNT									\$620,000.00

FUND OVERRIDE

CC 3000008142

Passed by the Council of The City of San Diego on SEP 15 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<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"/>
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"/>
Chris Cate	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 24 2015

(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.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

By *W. J. Brady*, Deputy

Office of the City Clerk, San Diego, California

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