

RESOLUTION NUMBER R- 310532

DATE OF FINAL PASSAGE JUN 22 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN  
DAVID KENNEDY AND THE CITY OF SAN DIEGO

WHEREAS, on May 20, 2014, DAVID KENNEDY filed a Writ of Mandamus and Complaint for Injunctive and Declaratory Relief pursuant to California Public Records Act against the City of San Diego [City] arising from his Public Records Act request. Plaintiff brought suit in the San Diego Superior Court. The suit is entitled David Kennedy v. City of San Diego, San Diego Superior Court Case No. 37-2014-00016245-CU-MC-CTL [Litigation]; and

WHEREAS, in Closed Session on April 12, 2016, the City Council, by the following votes: Yeas, District(s) 1, 2, 3, 4, 5, 6, 7, 8; Nays, None; and Absent, District 9, approved the Settlement.

WHEREAS, the City Council in Closed Session on April 12, 2016, 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:

1. Authorizes the Mayor or his designee to pay the sum of \$75,000.00 from the Water Utility Operating Fund No. 700011, 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 Writ of Mandamus and Complaint for Injunctive and Declaratory Relief pursuant to California Public Records Act of David Kennedy v. City of San Diego, San Diego Superior Court Case No. 37-2014-00016245-CU-MC-CTL.

2. Authorizes the Chief Financial Officer to expend the amount of \$75,000.00, from the Water Utility Operating Fund No. 700011, 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. Authorizes the Comptroller to issue a check in the amount of \$75,000.00, made payable to Law Offices of Bernard F. King III, APC Client Trust Account re David Kennedy.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Rayna A. Stephan  
Rayna A. Stephan  
Deputy City Attorney

RAS:lla  
April 28, 2016  
Or.Dept:City Attorney  
CC No. 3000008925  
Doc. No.: 1266189

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 14 2016.

ELIZABETH S. MALAND  
City Clerk

By Mary Hernandez  
Deputy City Clerk

Approved: 6/22/16  
(date)

Kevin L. Faulconer  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

**The City of San Diego  
COMPTROLLER'S CERTIFICATE**

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING CC 3000008925  
DEPT. NO.: 2013

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: \_\_\_\_\_

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: \$75,000.00

Vendor: Law Offices of Bernard F. King III, APC Client Trusdst Account re David Kennedy

Purpose: Settlement of David Kennedy's Writ of Mandamus and Complaint for Injunctive and Declaratory Relief pursuant to California Public Records Act.

Date: May 13, 2016

By: Livia Valles   
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              | 700011 |                |                |                 | 512007      | 2013          | 2013130001  |     | \$75,000.00     |
|                 |        |                |                |                 |             |               |             |     |                 |
|                 |        |                |                |                 |             |               |             |     |                 |
|                 |        |                |                |                 |             |               |             |     |                 |
| TOTAL AMOUNT    |        |                |                |                 |             |               |             |     | \$75,000.00     |

Passed by the Council of The City of San Diego on JUN 14 2016, by the following vote:

| Councilmembers   | Yeas                                | Nays                     | Not Present                         | Recused                  |
|------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Sherrri 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 type="checkbox"/>            | <input type="checkbox"/> | <input checked="" 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 JUN 22 2016

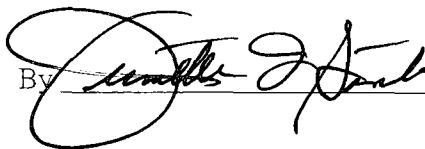
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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  
Resolution Number R- 310532