

RESOLUTION NUMBER R- 312005
DATE OF FINAL PASSAGE OCT 22 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING PAYMENTS TO IMPLEMENT THE SETTLEMENT BETWEEN SAN DIEGO COASTKEEPER, THE COASTAL ENVIRONMENTAL RIGHTS FOUNDATION, AND THE CITY OF SAN DIEGO REGARDING STATEWIDE INDUSTRIAL STORM WATER PERMIT, ORDER NO. 2014-0057-DWQ.

WHEREAS, San Diego Coastkeeper and the Coastal Environmental Rights Foundation (Plaintiffs) allege that the City of San Diego (City) failed to comply with the requirements of the Statewide Industrial Storm Water Permit, Order No. 2014-0057-DWQ, at the Miramar Landfill, Metro Biosolids Center, the Point Loma Wastewater Facility, the North City Water Reclamation Plant and the South Bay Water Reclamation Plant; and

WHEREAS, the City Council in Closed Session on May 22, 2018 authorized a settlement agreement to satisfy all of Plaintiffs' claimed violations relating to Order No. 2014-0057-DWQ by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8 and 9; Nays, None; and Absent, None, for amounts consistent with those set forth below, pursuant to such other terms more fully set forth in the settlement agreement, and contingent upon the Federal District Court of Southern California issuing an Order approving the settlement agreement; NOW, THEREFORE,

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

1. The Mayor, or his designee, to pay the following amounts as more fully set forth in the settlement agreement and contingent upon the Federal District Court of Southern California issuing an Order approving the settlement agreement: (i) \$100,000 for Plaintiffs' fees and costs; (ii) \$35,000 to fund environmental project activities that will reduce or mitigate the

impacts of storm water pollution from industrial activities in the Southern California Bight and its tributaries (Environmental Project); (iii) monitoring fees capped at up to \$25,000 per year during the settlement term; and (iv) stipulated payments of \$1,000 for each missed reporting deadline for the feasibility analyses or Action Plans during the settlement term, in settlement of all of Plaintiffs' claimed violations relating to Order No. 2014-0057-DWQ.

2. The Chief Financial Officer to expend \$135,000 to satisfy the Plaintiffs' fees and costs and the Environmental Project payment, of which \$108,000 is from the Metro Sewer Utility Fund 700001, and the remaining \$27,000 is from the Refuse Disposal Enterprise Fund 700039, 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. The Chief Financial Officer to expend up to \$25,000 per year to satisfy Plaintiffs' monitoring fees, of which four-fifths of the payment will be expended from the Metro Sewer Utility Fund 700001, and the remaining one-fifth will be expended from the Refuse Disposal Enterprise Fund 700039, contingent upon the City's receipt of joint invoices from Plaintiffs in accordance with the settlement agreement, adoption of the annual Appropriation Ordinance for the applicable fiscal year, and 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. The Chief Financial Officer to expend \$1,000 for each missed reporting deadline for the feasibility analyses or Action Plans, of which four-fifths of the payment will be expended from the Metro Sewer Utility Fund 700001, and the remaining one-fifth will be expended from the Refuse Disposal Enterprise Fund 700039, contingent upon the adoption of the annual

Appropriation Ordinance for the applicable fiscal year, and 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.


5. The City Comptroller to issue a check in the amount of \$100,000 payable to “Coast Law Group, LLP Attorney Client Trust” within 45 calendar days from the date the Federal District Court of Southern California issues an Order approving the settlement agreement. The Comptroller shall indicate “Order No. 2014-0057-DWQ Settlement, Plaintiffs’ Fees and Costs” on the check and shall send the check to Coast Law Group, LLP, Attn: Marco Gonzalez, 1140 South Coast Highway 101, Encinitas, CA, 92024, via certified mail or overnight delivery.

6. The City Comptroller to issue a check in the amount of \$35,000 payable to “San Diego Audubon Society” within 45 calendar days from the date the Federal District Court of Southern California issues an Order approving the settlement agreement. The Comptroller shall indicate “Order No. 2014-0057-DWQ Settlement, Environmental Project payment” on the check and shall send the check to the San Diego Audubon Society, Attn: Chris Redford, 4010 Morena Blvd, San Diego, CA, 92117, via U.S. Mail or similar delivery service.

7. The City Comptroller to issue checks totaling up to \$25,000 per year during the settlement term, payable to “Coast Law Group, LLP Attorney Client Trust,” within 45 calendar days of the City’s receipt of a joint invoice from Plaintiffs in accordance with the settlement agreement. The Comptroller shall indicate “Order No. 2014-0057-DWQ Settlement, Monitoring Fees” on the check and shall send the check to Coast Law Group, LLP, Attn: Marco Gonzalez, 1140 South Coast Highway 101, Encinitas, CA, 92024, via U.S. Mail or similar delivery service.

8. The City Comptroller to issue a check in the amount of \$1,000 during the settlement term for each missed reporting deadline applicable to the feasibility analyses or Action Plans, payable to "San Diego Audubon Society," within 45 calendar days of the missed reporting deadline. The Comptroller shall indicate "Order No. 2014-0057-DWQ Settlement, Missed Reporting Deadline" on the check and shall send the check to the San Diego Audubon Society, Attn: Chris Redford, 4010 Morena Blvd, San Diego, CA, 92117, via U.S. Mail or similar delivery service.


APPROVED: MARA W. ELLIOTT, City Attorney

By 
Amanda L. Guy
Deputy City Attorney

ALG:LF:lf
10/02/18
Or. Dept: PUD
Doc. No.: 1765262_2

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 16 2018

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/22/18
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

OCT 16 2018

Passed by the Council of The City of San Diego on _____, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage **OCT 22 2018**

(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 *Linda Irwin*, Deputy

Office of the City Clerk, San Diego, California

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