

# 105  
10/16/18

(R-2019-140)

RESOLUTION NUMBER R- 312006

DATE OF FINAL PASSAGE OCT 22 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN  
E.S. HOLDINGS, LLC, LEXINGTON INSURANCE  
COMPANY, AND THE CITY OF SAN DIEGO

WHEREAS, on February 10, 2016, Lexington Insurance Company ASO Sanford Healthcare [Lexington] filed a subrogation claim against the City of San Diego [City] and on May 25, 2016, E.S. Holdings, LLC filed a claim against the City alleging water damage to a single-family home located at 8554 El Paseo Grande, La Jolla, when a storm-drain pipe owned by the City and located uphill from the Property became offset allowing debris to clog the pipe. During a heavy rainfall on January 6, 2016, water that should have flowed into the storm drain backed up onto the street and eventually flooded the Property; and

WHEREAS, in Closed Session on September 11, 2018, the City Council, by the following votes: Yeas, District(s) 1, 2, 3, 4, 5, 6, , 8, and 9; Nays, None; and absent, 7, approved the Settlement for an amount consistent with the amounts set forth below;

NOW, THEREFORE,

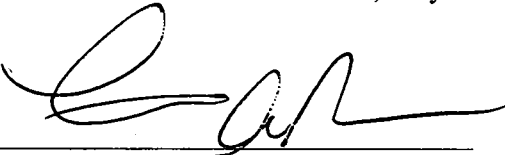
BE IT RESOLVED, by the Council of the City of San Diego that the Council authorizes:

1. A resolution authorizing the Mayor or his designee to pay the sum of \$1,413,218.38 from Public Liability Fund No. 720045, in settlement of each and every claim for damages, interest, costs, and fees of any type, including attorney's fees, against City of San Diego, its agents and employees, arising from the claims filed by Lexington and E.S. Holdings, Inc. for damage to the property located at 8554 El Paseo Grande, La Jolla, due to the flooding incident of January 6, 2016.

2. Authorizes the Chief Financial Officer to expend \$1,413,218.38 from Public Liability Fund No. 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. Authorizes the Comptroller to issue a check in the amount of \$1,209,290.62 made payable to Lexington Insurance Company, and a check in the amount of \$203,927.76 made payable to ES Holdings, LLC.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Catherine A. Richardson  
Chief Deputy City Attorney

CAR:slc  
September 18, 2018  
Or.Dept: City Attorney  
CC No. 30000011508  
Doc. No.: 1838507

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

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

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING CC: 3000011508  
 DEPT. NO.: 1211

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: \_\_\_\_\_ \$1,413,218.38

Vendor: Lexington Insurance Company (\$1,209,290.62)  
 Vendor: ES Holdings, LLC (\$203,927.76)

Purpose: Authorizing the expenditure of funds for the settlement of two related pre-litigation claims filed by E.S. Holdings, LLC and Lexington Insurance Company. Risk Management Claim No. 12581.

Date: \_\_\_\_\_, September 25, 2018

By: Lina Chlm  10/1/18  
 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		\$1,413,218.38
TOTAL AMOUNT									\$1,413,218.38

FUND OVERRIDE

CC 3000011508

Passed by the Council of The City of San Diego on OCT 16 2018, 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:

(Seal)

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

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

By Linda Irwin, Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 312006