# 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

Approved: 1/22 18

(date)

City Clerk

By Synda Truen

Deputy City Clerk

KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_ (date) KEVIN L. FAULCONER, Mayor

## The City of San Diego COMPTROLLER'S CERTIFICATE

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