

RESOLUTION NUMBER R- 313703DATE OF FINAL PASSAGE SEP 22 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE FINAL SETTLEMENT  
BETWEEN ADAM BABIN AND POWER KEG ATHLETICS,  
LLC, DBA AS POWER KEG CROSSFIT

WHEREAS, on July 30, 2019, Plaintiffs Adam Babin and Power Keg Athletics LLC, doing business as Power Keg Crossfit, a California Limited Liability Company, filed suit against the City of San Diego, alleging property damage and lost business income arising from a break in the City's water main at Kettner Boulevard and Juniper Street in Little Italy, entitled *Adam Babin; Power Keg Athletics LLC v. City of San Diego*, Case No. 37-2019-00039404-CU-PO-CTL; and

WHEREAS, in closed session on July 27, 2021, the City Council, by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8, and 9; Nays, none; Absent, none, approved a settlement resolving Plaintiffs' remaining lost business income and goodwill claims in the sum of \$205,000.00; NOW, THEREFORE,

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

1. Authorize the Mayor or his designee to pay the sum of \$205,000.00 from Water Fund No. 700011, in settlement of each and every claim for lost business income and goodwill against City of San Diego, its agents and employees, arising from the Complaint filed by Adam Babin and Power Keg Athletics LLC, doing business as Power Keg Crossfit, a California Limited Liability Company.

2. Authorize the Chief Financial Officer to expend \$205,000.00 from Water 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. Authorize the Department of Finance to issue a check in the amount of \$205,000.00 made payable to DuFord Law, LLP.

APPROVED: MARA W. ELLIOTT, City Attorney

By s/Dave E. Abad  
Dave E. Abad  
Deputy City Attorney

DEA:gcb  
August 2, 2021  
Or.Dept: City Attorney  
CC No. 3000014242  
Doc. No.: 2726638

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 14 2021.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 9/22/21  
(date)

  
TODD GLORIA, Mayor

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

\_\_\_\_\_  
TODD GLORIA, Mayor

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

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING CC 3000014242  
DEPT. NO. 2000

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	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	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: \$205,000.00

Vendor: Adam Babin and Power Keg Athletics LLC

Purpose: To authorize expenditure of funds, in the sum of \$205,000.00, related to settlement of each and every remaining claim, interest, and costs, against City of San Diego, its agents and employees, arising from the complaint filed.

Date: August 24, 2021 By: Leana Chan

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center	IO or WBS Element	Original Amount
001	Non-Program	700011	N/A	512007	OTHR-00000000-WU	2000	2000211101	N/A	\$205,000.00
TOTAL AMOUNT									\$205,000.00

FUND OVERRIDE ☐

Passed by the Council of The City of San Diego on SEP 14 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 22 2021.

**(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:

TODD GLORIA  
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

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