

#104
06/28/2022

(R-2022-550)

RESOLUTION NUMBER R- 314200

DATE OF FINAL PASSAGE JUL 11 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN
THE CITY OF SAN DIEGO, ANNA AVENUE ASSOCIATES,
LLC, AND JOHN SMITH EARTHWORKS, INC.

WHEREAS, on January 3, 2018, Plaintiffs Anna Avenue Associates, LLC, and John Smith Earthworks, Inc., filed suit in San Diego Superior Court against the City of San Diego for inverse condemnation, nuisance, and trespass due to alleged reoccurring flooding or lack of drainage of an unimproved public right-of-way that abuts their property located at 5216 Anna Avenue. The suit is entitled *Anna Avenue Associates, LLC et al. v. SANDAG et al.*, Superior Court Case No. 37-2018-00000231-CU-EI-CTL (Litigation); and

WHEREAS, in closed session on April 19, 2022, the City Council, by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8, and 9; Nays, None; Absent, None; authorized settlement of the Litigation for an amount consistent with the amounts set forth below and pursuant to such other terms more fully set forth in the Settlement and Release Agreement;

NOW THEREFORE

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

1. Authorizes the Mayor or his designee to pay the sum of \$325,000.00 from Public Liability Fund No. 720045, in settlement of each and every claim for damages, interest, costs, and fees of any type, including attorneys' fees, against City of San Diego, its agents and employees, arising from the litigation.

2. Authorizes the Chief Financial Officer to expend an amount not to exceed \$325,000.00 from Public Liability Fund No. 720045, for the purpose of settling this claim.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jana Mickova Will
Jana Mickova Will
Deputy City Attorney

JMW:msb
June 6, 2022
Or.Dept: City Attorney
CC No. 3000014919
Doc. No.: 2998458

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 28 2022.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 7/11/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

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

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING DEPT. NO.: 3000014919
1515

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: \$325,000 Fund: 720045

Purpose: Settlement of Anna Avenue Associates et al. v. City of San Diego et al. San Diego Superior Court Case No. 37-2018-00000231-CU-EL-CTL Risk Claim No. 18047.

Date: June 7, 2022 By: Nicholas O'Donnell *Nicholas O'Donnell*
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	720045			OTHR-00000000-GG	512007	1515	1515000011		\$325,000
TOTAL AMOUNT									\$325,000

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: _____

Vendor: _____

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									

Passed by the Council of The City of San Diego on JUN 28 2022, 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 JUL 11 2022.

(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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 314200