#110b 12106/22 (R-2023-232)

RESOLUTION NUMBER R- 314500

DATE OF FINAL PASSAGE DEC 0 9 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE SAN DIEGO AIR POLLUTION CONTROL DISTRICT AND CITY OF SAN DIEGO.

WHEREAS, the San Diego Air Pollution Control District (APCD) is the local regulatory authority responsible for enforcing rules and regulations protecting air quality; and

WHEREAS, on March 20, 2019, the APCD issued Notice of Violation (NOV)

APCD2019-NOV-000197 to the City alleging a Rule 51 violation pertaining to alleged asbestos air emissions at the San Diego Fire-Rescue training facility; and

WHEREAS, in 2019-2020, the APCD issued NOVs APCD2019-NOV-000702, APCD2020-NOV-000062, APCD2020-NOV-000067, and APCD2020-NOV-000100 alleging violations of the California Health and Safety Code and APCD Rules 51 and 1206 pertaining to alleged asbestos issues at 101 Ash Street; and

WHEREAS, collectively, NOVs APCD2019-NOV-000197, APCD2019-NOV-000702, APCD2020-NOV-000062, APCD2020-NOV-000067, and APCD2020-NOV-000100 shall be referred to as "NOVs"; and

WHEREAS, in Closed Session on October 18, 2022, the San Diego City Council, by the following votes: Yeas, Districts 2, 3, 4, 5, 7, 9; Nays, none; Absent, District 1, 6 and 8, approved the settlement to resolve the NOVs for an amount consistent with the amounts set forth below and pursuant to such other terms more fully set forth in the Settlement Agreement; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

(R-2023-232)

BE IT RESOLVED, by the City Council of the City of San Diego, that the Mayor or his

designee is authorized to enter into a Settlement Agreement with the San Diego Air Pollution

Control District to fully resolve the NOVs and to pay the sum of \$4,940,000 which includes a

one-time monetary payment of \$250,000 to the APCD and a not-to-exceed amount of \$4,690,000

for creation of a Tree Planting Program beginning July 2023 and concluding by December 2028,

in settlement of each and every potential claim and liability related to the NOVs.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend

an amount not to exceed \$4,940,000, which includes a one-time monetary payment of \$250,000

to the APCD of which \$212,000 shall be paid from the Fire-Rescue Department's General Fund

Budget, Fund 100000, Fire Rescue Business Area 1912 and \$38,000 shall be paid from

Engineering and Capital Projects Fund No. 720057, and a not-to-exceed amount of \$4,690,000

for creation of a Tree Planting Program beginning July 2023 and concluding by December 2028,

which will be appropriated as-need via the budget process in Fiscal Years 2024-2029, and paid

from Fund 100000, Transportation Department, Cost Center 2116000013, for the purpose of

settling this matter.

APPROVED: MARA W. ELLIOTT, City Attorney

By

/s/ Laura M. DePoister

Laura M. DePoister

Deputy City Attorney

LMD:hm

October 25, 2022

Or.Dept: City Attorney

CC No. 3000015267

Doc. No. 3124607

-PAGE 2 OF 3-

meeting of	as passed by the Council of the City of San Diego, at the
	ELIZABETH S. MALAND City Clerk
	By KILISHUM MUDINA  Deputy City Clerk
Approved: 12/9/11 (date)	TODD CLORIA, Mayor
Vetoed:(date)	TODD GLORIA, Mayor

## The City of San Diego COMPTROLLER'S CERTIFICATE

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DEC 06 2022

Passed by the Council of The	City of San Die	go on		_, by the following v	vote:
Councilmembers	Yeas	Nays	Not Present	Recused	
Joe LaCava	Ŋ			П	
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Stephen Whitburn	$ar{f Z}$				
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Date of final passage		ed to the Offic	ce of the City Clo	erk.)	
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