

RESOLUTION NUMBER R- **315382**

DATE OF FINAL PASSAGE **MAR 04 2024**

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN  
HCA PENTHOUSE APARTMENTS LP AND THE CITY OF  
SAN DIEGO

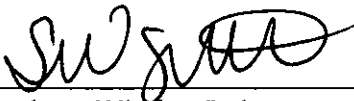
WHEREAS, on August 1, 2022, HCA Penthouse LP filed suit against the City of San Diego alleging inverse condemnation stemming from a failed storm drainpipe located next to an apartment complex at 6560 Montezuma Road. The lawsuit is entitled *HCA Penthouse Apartments LP vs. City of San Diego*, San Diego Superior Court No. 37-2022-00030433-CU-EI-CTL (Litigation); and

WHEREAS, in Closed Session on December 4, 2023, the San Diego City Council, by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8, and 9; Nays: None; Absent: None, approved the settlement of the Litigation for an amount consistent with the amount set forth below and pursuant to such other terms more fully set forth in the Settlement Agreement; NOW, THEREFORE,

1. Authorizes the Mayor or his designee to pay the sum of \$927,500.00 from the Public Liability Fund No. 720045, in settlement of the July 31, 2020 claim for damages, interest, costs, and fees of any type, against City of San Diego, its agents and employees, arising from the complaint filed by HCA Penthouse LP.

2. Authorizes the Chief Financial Officer to expend an amount not to exceed \$927,500.00 from the Public Liability Fund No. 720045, for the purpose of settling this claim.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Sarah A. Wigdor-Roberts  
Lead Deputy City Attorney

SAW:mgm  
January 3, 2024  
Or. Dept: City Attorney  
CC No. 3000016463  
Doc. No. 3519052

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 27 2024.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

Approved: 3/4/24  
(date)

  
TODD GLORIA, Mayor

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

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

The City of San Diego  
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

CC 3000016463

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: \$927,500.00

Purpose: Settlement of HCA Penthouse Apartments LP vs. City of San Diego: San Diego Superior Court No. 37-2022-00030433 CU-EI[CTL, Claim No. 26524.

Date: February 1, 2024

Lauren Rehkopf *Lauren Rehkopf*

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	720045	NON-PROGRAM		OTHR-00000000-GG	512007	1515	1515000011		\$927,500.00
TOTAL AMOUNT									\$927,500.00

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									

FUND OVERRIDE ☐

CC 3000016463

Passed by the Council of The City of San Diego on FEB 27 2024, 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"/>
District 4 - vacant	<input 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"/>
Kent Lee	<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 MAR 04 2024.

**(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.

DIANA J.S. FUENTES

(Seal)

City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

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