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04/15

Office of  
The City Attorney  
City of San Diego

MEMORANDUM

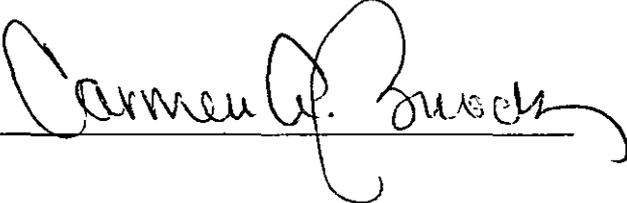
**DATE:** March 27, 2008  
**TO:** Michelle Strauss, Director of Legislative Affairs  
**FROM:** Carmen Brock, Deputy City Attorney  
**SUBJECT:** *La Jolla Country Club, Inc. v. City of San Diego.*  
San Diego Superior Court No. GIC 872163

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Attached please find a resolution R-2008-827 setting forth the approval of the City Council in Closed Session on October 6, 2007. The Auditor's Certificate was not requested prior to Council action in Closed Session. The vote taken in Open Session shall be the official vote.

Pursuant to the requirements, it is appropriate for this resolution to be placed on the next available Council docket for Council adoption confirming the Council's action in Closed Session.

It is, therefore, requested that it be calendared for the next available docket.

  
\_\_\_\_\_

Attachment

001009

REQUEST FOR COUNCIL ACTION  
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)

2800667

TO:  
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):  
RISK MANAGEMENT

February 13, 2008

4. SUBJECT:  
**SETTLEMENT OF PROPERTY DAMAGE CLAIM TO LA JOLLA COUNTRY CLUB, INC.**

**RISK MANAGEMENT FILE #: LP06-0534-2337**

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)  
Mike Gomez (619)236-7096

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)  
Carmen Brock (619) 533-5800

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	81140		
DEPT.	81140		
ORGANIZATION	3501		
OBJECT ACCOUNT	4824		
JOB ORDER	081141		
C.I.P. NUMBER			
AMOUNT	\$70,000.00		

9. ADDITIONAL INFORMATION / ESTIMATED COST:  
**\$70,000.00 - Total Settlement**

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>Carmen Brock</i>	2/19/08	8			
2	GENERAL SERVICES	<i>[Signature]</i>	3/11/08	9	CFO	<i>[Signature]</i>	3/21/08
3	AUDITOR	<i>Christophe Powell</i>	3/21/08	10	CITY ATTORNEY	<i>[Signature]</i>	2/19/08
4	FINANCIAL MGMT	<i>[Signature]</i>	3/18/08	11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	2/19/08
5	LIAISON OFFICE	<i>[Signature]</i>	3/14/08		DOCKET COORD: _____	COUNCIL LIAISON: <i>[Signature]</i>	2/19/08
6	RISK MANAGEMENT	<i>[Signature]</i>	3-5-08		COUNCIL PRESIDENT: <input checked="" type="checkbox"/>	<input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION	
7					<input type="checkbox"/> REFER TO: _____	COUNCIL DATE: <i>4/15/08</i>	

11. PREPARATION OF:  RESOLUTION(S)  ORDINANCE(S)  AGREEMENT(S)  DEED(S)

1. Authorizing the Mayor to pay the sum of \$70,000.00 in settlement of each and every claim against the City, its agents and employees, resulting from the Property Damage Claim to La Jolla Country Club, Inc.
2. Authorizing the City Auditor and Comptroller to issue one check in the amount of \$70,000.00 made payable to La Jolla Country Club, Inc.

11A. STAFF RECOMMENDATIONS:  

Approve the resolution

12. SPECIAL CONDITIONS:

**COUNCIL DISTRICT(S):** 2

**COMMUNITY AREA(S):** NONE

**ENVIRONMENTAL IMPACT:** NONE

**HOUSING IMPACT:** This activity is not a project and therefore exempt from CEQA pursuant to the State Guidelines Section 15060(c) (3).

**OTHER ISSUES:** NONE

001011

**EXECUTIVE SUMMARY SHEET**  
CITY OF SAN DIEGO

DATE ISSUED: February 13, 2008 REPORT NO:  
ATTENTION: Council President and City Council  
ORIGINATING DEPARTMENT: Risk Management  
SUBJECT: Settlement of Property Damage Claim to La Jolla Country Club, Inc.  
City File #: LP06-0534-2337  
COUNCIL DISTRICT(S): 2  
CONTACT/PHONE NUMBER: Mike Gomez (619) 236-7096

REQUESTED ACTION: Authorizing the Mayor and City Council to pay the total sum of \$70,000.00 in settlement of each and every claim against the City, its agents and employees, resulting from property damage claim to La Jolla Country Club, Inc.

STAFF RECOMMENDATION: Approve the resolution

EXECUTIVE SUMMARY: The proposed settlement would resolve all claims brought by La Jolla Country Club, Inc.

FISCAL CONSIDERATIONS: Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: This settlement has been heard in closed session on October 6, 2007 the City Council approved the settlement amount of \$70,000.00. The motion was made by Councilmember Atkins and seconded by Councilmember Frye. The motion passed 7 to 0 with Council President Peters recused.

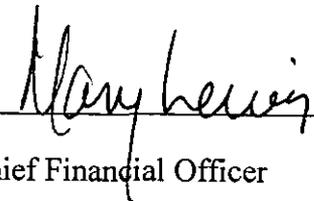
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A



Originating Department



Chief Financial Officer

001013

The City of San Diego  
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

AC 2800667

ORIGINATING

DEPT. NO.: 084

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: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	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: \$70,000.00

Vendor: La Jolla Country Club, Inc

Purpose: Authorize the Mayor to pay from the Public Liability Fund the sum of \$70,000 in settlement of each and every claim against the City, its agent and employees, resulting from the Property Damage Claim of La Jolla Country Club, Inc. Authorize the City Auditor & Comptroller to issue one check payable to above vendor.

Date: March 21, 2008 By: Christopher Purcell *Christopher Purcell 3/21/08*

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	0	81140	81140	3501	4824	081141				70,000.00
TOTAL										\$70,000.00

AC-361 (REV 2-92)

FUND OVERRIDE

AC 2800667

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

**A RESOLUTION AUTHORIZING SETTLEMENT OF  
PROPERTY DAMAGE CLAIM TO LA JOLLA COUNTRY  
CLUB, INC.**

WHEREAS, in Closed Session on October 6, 2007, by motion of Councilmember Atkins and seconded by Councilmember Frye, by the following Vote: Yeas, 7; Nays, None, with Council President Peters recused, approved the following motion:

WHEREAS on November 1, 2006, Plaintiff La Jolla Country Club, Inc., [LJCC or Plaintiff], filed suit against the City of San Diego [City] in the matter entitled *La Jolla Country Club, Inc. al. v. City of San Diego*, San Diego Superior Court Case No GIC872163, alleging causes of action for Dangerous Condition of Public Property, Private Nuisance, Inverse Condemnation, and Breach of Contract after an alleged failure of three down-hill drainage pipes crossing LJCC fairways in 2005 [the Litigation]; and

WHEREAS the City in closed session on October 6, 2007 authorized settlement of the Litigation in an amount consistent with the amount set forth below, NOW THEREFORE,

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

1. The sum of seventy thousand dollars (\$70,000) to be paid from the Public Liability Fund in settlement of each and every claim against the City, its agents and employees, arising from the Litigation.
2. That the Public Liability Fund is authorized to issue a check in the amount of \$70,000 payable to La Jolla Country Club, Inc.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Carmen Brock, Deputy City Attorney

CB:mc  
March 25, 2008  
Or Dept: Risk Management  
R-2008-827

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_, 2008.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

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

\_\_\_\_\_  
JERRY SANDERS, Mayor