

001353

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 533-5800

DATE: October 21, 2008
TO: Sabrina Curtin, Docket Coordinator
FROM: Bonny Hsu, Deputy City Attorney
SUBJECT: *Lexington Insurance Company v. City of San Diego*

Attached please find Resolution R-2009-322 setting forth the approval of the City Council in Closed Session on September 23, 2008. 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

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

001355

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE C.....)
AC 2900313

TO: City Attorney

2. FROM (ORIGINATING DEPARTMENT):
City Attorney

September 26, 2008

4. SUBJECT:
Settlement of the Property Damage claim of Lexington Insurance Company as subrogee of San Diego Unified School District, Risk Management file No. LP05-0705-1408.

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)
James Coldren 236-5598 MS 51-B

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)
Bonny Hsu 533-6371 MS 59

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	41500		
DEPT.	760		
ORGANIZATION	503		
OBJECT ACCOUNT	4824		
JOB ORDER	050301		
C.I.P. NUMBER			
AMOUNT	\$215,000		

9. ADDITIONAL INFORMATION / ESTIMATED COST:
\$ 00.00 Previously Paid
\$ 215,000.00 Outstanding
\$ 215,000.00 Total Settlement

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>[Signature]</i>	9/29/08	8			
2	RISK MANAGEMENT	<i>[Signature]</i>	10-1-08	9	CFO	<i>[Signature]</i>	10/20/08
3	WATER	<i>[Signature]</i>	10-2-08	10	CITY ATTORNEY		
4	AUDITOR	<i>[Signature]</i>	10-16-08	11			
5	LIAISON OFFICE	<i>[Signature]</i>	10/16/08		DOCKET COORD: _____	COUNCIL LIAISON: <i>[Signature]</i>	10/28/08
6	FINANCIAL MANAGEMENT	<i>[Signature]</i>	10/10/08		COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/>		
7					COUNCIL DATE: 11/18/08		

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

1. Authorizing the Mayor to pay from the Water Utility Fund the sum of \$ 215,000.00 in settlement of each and every claim against the City, its agents and employees, arising from the Property Damage claim of Lexington Insurance Company as a result of a water main break.
2. Authorizing the City Comptroller to issue one check in the amount of \$ 215,000.00 payable to Lexington Insurance Company.
3. Authorizing the expenditure of \$215,000 from the Water Department fund 41500.

11A. STAFF RECOMMENDATIONS:
Approve the resolution

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): District 1; Peters

COMMUNITY AREA(S): La Jolla

ENVIRONMENTAL IMPACT: None

HOUSING IMPACT: This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3).

OTHER ISSUES: None

001357

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: September 26, 2008
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: City Attorney
SUBJECT: Settlement of Property Damage Claim of Lexington
Insurance Company, File No. LP05-0705-1408.
COUNCIL DISTRICT(S): District 1; Peters
CONTACT/PHONE NUMBER: James Coldren (619) 236-5598

REQUESTED ACTION: Authorizing the Mayor to pay the sum of \$215,000 in settlement of each and every claim against the City, its agents and employees, arising from the Property Damage Claim of Lexington Insurance Company as subrogee of San Diego Unified School District, as a result of flooding at the La Jolla High School related to a break on a Cast Iron water main on Nautilus Street.

STAFF RECOMMENDATION: Approve the resolution.

EXECUTIVE SUMMARY: The proposed settlement would resolve all claims brought by Lexington Insurance Company as subrogee of San Diego Unified School District.

FISCAL CONSIDERATIONS: Settlement will be paid from the Water Utility fund.

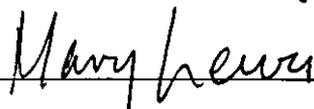
PREVIOUS COUNCIL and/or COMMITTEE ACTION: WHEREAS, in Closed Session on September 23, 2008, by motion of Councilmember Frye and second by Councilmember Hueso, the City Council, by the following Vote: Yeas, 5; Nays, None; Not Present, Council President Peters, and Councilmembers Atkins and Madaffer, approved the following motion: To approve the mediated settlement agreement of each and every claim against the City of San Diego, its agents and employees, resulting from the property damage claim in *Lexington Insurance Company v. City of San Diego*.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A



Originating Department



Chief Financial Officer

001359

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2900313
DEPT. NO.: 760

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: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

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: _____ \$215,000.00

Vendor: Lexington Insurance Company

Purpose: Authorizing the Mayor to pay from the Water Utility Fund the sum of \$215,000.00 in settlement of each and every claim against the city, its agents and employees, arising from the Property Damage claim of Lexington Insurance Company as a result of a water main break.

Date: October 15, 2008 By: Norman Reyes

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
001	0	41500	760	503	4824	50201					215,000.00
TOTAL AMOUNT											\$215,000.00

FUND OVERRIDE

AC 2900313

001361

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE SETTLEMENT BETWEEN LEXINGTON INSURANCE COMPANY AND THE CITY OF SAN DIEGO IN THE AMOUNT OF TWO HUNDRED FIFTEEN THOUSAND DOLLARS

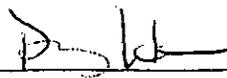
WHEREAS, in Closed Session on September 23, 2008, by motion of Councilmember Frye and second by Councilmember Hueso, the City Council, by the following Vote: Yeas, 5; Nays, None; Not Present, Council President Peters, and Councilmembers Atkins and Madaffer, approved the following motion:

To approve the mediated settlement agreement of each and every claim against the City of San Diego, its agents and employees, resulting from the property damage claim in *Lexington Insurance Company v. City of San Diego*.

BE IT RESOLVED, that the City Auditor and Comptroller be and is hereby authorized to issue a check in the sum of \$215,000 made payable to Lexington Insurance Company in full settlement of the lawsuit and of all claims.

BE IT FURTHER RESOLVED, that the City Council is hereby authorized to pay the sum of \$215,000 from the Public Liability Fund 41500.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By  _____
Bonny Hsu
Deputy City Attorney

HS:my
10/3/07
Or.Dept:Risk
R-2009-322
Aud. Cert: 2900313

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

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor