

RESOLUTION NO. 2015-098

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA,
COUNTY OF NAPA, STATE OF CALIFORNIA, TO AUTHORIZE THE
CITY MANAGER TO EXPEND FUNDS TO PAY THE SUPERIOR
COURT'S AWARD OF LEGAL FEES TO WILLIAM MCKINNON IN THE
AMOUNT OF \$555,766.58 PLUS INTEREST AND TO APPROVE A
BUDGET ADJUSTMENT OF \$415,000.00 FROM THE
UNAPPROPRIATED GENERAL FUND TO THE WATER OPERATIONS
FUND**

WHEREAS, in July 2014, the state Appellate Court determined that the attorney representing Grant Reynolds, William McKinnon, be awarded attorney fees for his efforts in addressing a Public Trust Doctrine issue related to water bypass and the operation of Kimball Dam in Calistoga and remanded the award of fees to the Napa Superior Court; and

WHEREAS, in April 2015 the Napa Superior Court granted attorney fees in an effective amount of \$575,203.57 plus interest to William McKinnon; and

WHEREAS, On July 17, 2015 the Napa County Superior Court ordered Mr. McKinnon to pay the City \$19,436.99 as sanctions for his frivolous and bad faith actions related to his recordation of an abstract of judgment and levying of a writ of execution on city bank accounts; and

WHEREAS, the Napa County Superior Court also ordered the sanction amount was to be deducted from the amount the City owes to Mr. McKinnon in attorney's fees which reduces the amount owed by City to \$555,766.58 plus interest; and

WHEREAS, the City Council reviewed the recommendation of staff on this matter at public meeting and considered public testimony on this matter.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Calistoga hereby authorizes the City Manager to pay the court established legal fees to William McKinnon in the amount of \$555,766.58 plus interest to be charged against the Water Enterprise Fund (02-4132-4402) ; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Calistoga hereby approves a budget adjustment to the Fiscal Year 2015/16 Operating Budget to transfer \$415,000 from the unappropriated General Fund -General Liability Claims to the Water Enterprise Fund (02-4132-4402) in the form of a loan to be repaid by the Water Enterprise Fund at a future date, and authorizes the City Manager to execute all documents necessary to effectuate payment of the attorney's fee award to William McKinnon.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this **4th day of August, 2015**, by the following vote:

AYES: Councilmember Lopez-Ortega, Vice Mayor Dunsford,
Councilmembers Kraus and Barnes and Mayor Canning
NOES: None
ABSTAIN: None
ABSENT: None



CHRIS CANNING, Mayor

ATTEST:



KATHY FLAMSON, City Clerk