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Office of the City Clerk
City of National City

**AMENDED
CLAIM FOR DAMAGES
TO PERSON OR PROPERTY**

To: THE CITY CLERK OF THE CITY OF NATIONAL CITY

This is an AMENDED Claim for Damages. The initial Claim is attached hereto.

Name of Claimant: [Personal Information]

Address of Claimant: [Personal Information] National City, CA 91950

Phone of Claimant: [Personal Information]

Address to which Notices or Communications regarding this claim should be sent to:

Brian C. Gonzalez
Law Offices of Brian C. Gonzalez
2445 Fifth Avenue, Suite 330
San Diego, California 92101
Phone: 800-884-1072
Email: bgonzlaw@gmail.com

General Description of Incident and City's Acts and Omissions:

Claimant has lived on East 8th Street for decades and prior to the installation of the metal grate across the storm drain located directly behind his home, there had never been an issue with flooding. During the Winter of 2022/2023, the years of debris that had built up along the storm drain channels due to the lack of maintenance and clearing by the City of National City caused the newly installed grate to become clogged and the Claimant's property was flooded. The City was made aware of this problem, City officials came to the area and confirmed notice of the problem and assured the Claimant and other adjacent property owners that the problem that caused the flooding would be fixed. But nothing was done. Nothing.

So when the rain storms came again this Winter, culminating with the rain on January 22, 2024, the same thing happened: The uncleared and unmaintained debris flowed down the channel and clogged the grate, causing the water to back up and eventually flood the Claimants property, only this time, the flooding was devastating. The flood waters poured into Claimants home and garage and destroyed all of the contents. The flood waters completely destroyed the fencing around Claimant's property and destroyed everything inside of Claimant's home (personal items, flooring, walls, appliances, photographs, family memories, everything).

This was not a flooding that occurred due to a "once in a thousand year" rain. This flooding was completely avoidable if the City had simply fixed the problem that

they had been directly placed on notice of and acknowledged a year earlier. Instead, the City did nothing and the Claimant's home, property and lifetime of memories have been destroyed. The City acted negligently by installing the grate, failing to maintain and clear the water channel and the Paradise Creek Water Quality and Community Enhancement Project basin, and allowing the water to trespass onto the Claimant's property creating a nuisance and causing devastating loss and damages (both economic and non-economic).

Date, Time and Place of Incident:

On January 22, 2024, starting at approximately 10:00 am, Claimant's home and property located at [Personal Information], National City, CA 91950 was severely damaged or completely destroyed by flooding.

The name(s) of the City Employee who was responsible for the incident:

It is presently unknown what City employees are charged with the duty and responsibility of clearing and maintaining the National City storm drains and channels in this area, as well as the basin for the Paradise Creek Water Quality and Community Enhancement Project. Claimant does know that the City was aware of this problem due to complaints and claims made to the City in January 2023. It is claimant's understanding that Dick Miller, Inc. was contracted by the City to install the grate and that Wright Construction was contracted by the City to create the basin for the Paradise Creek Water Quality and Community Enhancement Project.

The amount of the claim:

Property Damage

Prior to the January 22, 2024 flooding, Claimant's home could have been sold for approximately \$750,000. It is now destroyed and it will cost at least \$250,000 to repair, and could end up costing twice that amount. The land on Claimant's property has eroded and is unstable and needs to be replaced and stabilized. Even if the home and property are restored to its pre-incident condition, the Claimant is now obligated to disclose this severe damage and history of flooding to any potential buyer, which will decrease the value of the home by at least \$100,000. In addition to the damage to the structures on the property, the Claimant lost virtually all of his personal items, furniture, appliances, photos and lifelong memories located inside the home, garage and surrounding property. The Claimant is in the process of itemizing all of his personal items lost or destroyed so the exact amount is unknown but is anticipated to be in excess of \$100,000.

Claimant has also been forced to incur the cost of additional living expenses, clothing, food and other costs as he tries to start putting his life back together. It is

anticipated that it will take up to two years, and possibly longer for the Claimant to replace all of his lost personal items and to repair his property and fencing. The Claimant has no insurance that covers any of the losses he has sustained, and it will force him to obtain a loan in order to replace and repair everything that he has lost. Assuming that he can even obtain a sufficient loan, he will incur the interest and fees associated with such a loan. The estimated cost for these additional living expenses, clothing, food, loan interest and fees and other costs is likely to exceed \$100,000.

General Damages:

The damage to Claimant's home, property and personal items has been devastating, but the emotional loss is far more significant. Claimant lost everything, and the City could have easily prevented this from happening. As a result of the City's negligence, trespass and nuisance, Claimant is entitled to "non-economic damages" for the annoyance and discomfort of being displaced from his home since January 22, 2024 and for however long it takes to have his home, property and personal items replaced. Claimant will be forced to spend countless hours itemizing and replacing his lost items. Claimant has suffered emotional distress and mental anguish caused by the damage to Claimant's peaceful enjoyment of his property and home.

Total Damages:

Thus, the amount of this claim, which includes damage to Claimant's property, to the structures on his property, destruction of all of the Claimant's personal items and general damages (also known as "non-economic damages") would rest within the unlimited jurisdiction of the California Superior Court, as it is clearly well in excess of the \$35,000 minimum limits.

Insurance Payments:

None.

Witnesses:

All of the residents of the five homes located in this section of [Personal] in National City are witnesses to the incident and to Claimant's losses and damages. Those individuals are [Personal Information] [Personal Information] (each of whom is filing a Claim for Damages as well).

Dated: February 29, 2024

LAW OFFICES OF BRIAN C. GONZALEZ

Personal Signature

By: Brian C. Gonzalez
Attorneys for Claimant Hal Malinski



City of National City

CLAIM FOR DAMAGES TO PERSON OR PROPERTY

INSTRUCTIONS

1. Read entire claim form before filing.
2. This claim form must be signed at bottom.
3. Attach separate sheets, if necessary, to give full details. SIGN EACH SHEET.
4. Claims must be filed with the City Clerk, 1243 National City Boulevard, National City, CA 91950 (619) 336-4228.
5. Inquiries regarding status of filed claims should be directed to the Risk Manager at (619) 336-4370.

Attention: City Clerk

The undersigned hereby presents the following claim to the City of National City, in accordance with the laws of the State of California:

1. Name of Claimant: [Redacted] Personal Information
2. Home Address of Claimant: [Redacted] National City, CA 91950
- Home Telephone Number: [Redacted] /Cell: [Redacted] Personal Information
- Email: [Redacted] @att.net
3. City or address to which notices or communications to be sent regarding this claim: [Redacted] Personal Information San Diego, CA 92139

4. How did DAMAGE or INJURY occur? Give full particulars.
 Negligence on the part of the city of National City to provide adequate storm drain protection from flooding due to Paradise Creek overflowing.

5. When did DAMAGE or INJURY occur? Give the date and time of day.
 1/22/2024, flooding started at approximately 10:30 am

6. Where did DAMAGE or INJURY occur? Describe fully, and attach diagram where appropriate. Give street names and addresses and measurements from landmarks.
 Damage occurred at [Redacted] Personal Information, National City, CA 91950. Floodwaters entered house and garage, totally destroying contents.

7. What particular ACT or OMISSION do you claim caused the injury or damage? Give names of City employees causing the injury or damage if known.

City of National City provided inadequate flood control protection.

8. What DAMAGE or INJURIES do you claim resulted? Give full extent of injuries or damages claimed.

Flood water completely destroyed yard furniture inside of house, carpets, drywall, mold/mildew, flooring, appliances.

9. NAMES of physicians/hospitals, etc. N/A

10. What AMOUNT do you claim on account of each item of injury or damage as of date of presentation of this claim? Explain how you calculated this amount.

\$250,000 to repair damages, estimates pending, to replace house damage, fence repair, garage repair, etc. \$100,000 to replace household contents based on items lost.

Give ESTIMATED AMOUNT as far as known you claim on account of each item of future injury or damage giving basis of computation. N/A

11. What INSURANCE PAYMENTS did you receive, if any, and what were the names of any insurance Company(ies). NONE

12. What EXPENDITURES did you make on account of accident or injury. (Date-Item)-(Amount). N/A

13. Give NAMES AND ADDRESSES of Witnesses, Doctors and Hospitals. all residents

of [Redacted] Personal Information

Attach COPIES of any photos, documents or receipts you wish considered.

I declare under penalty of perjury that I have read the foregoing claim and the papers attached thereto, and that the same are true and correct to the best of my knowledge.

DATE 1/20/2024

[Redacted] Personal Signature

Claimant or Agent

[Redacted] Personal Information

Telephone No. of Above

National City, CA 91950

Redaction Log

Reason	Page (# of occurrences)	Description
Personal Information	1 (2) 2 (1) 3 (3) 5 (5) 6 (2)	Under Government Code section 6255(a), personal contact information is exempt under protection of the California Public Records Act, and has been withheld on some documents responding to your request. Personal information being withheld is in the interest of the applicantowner and their right to privacy which outweighs the public interest of disclosure.
Personal Signature	4 (1) 6 (1)	Personal Signature - Redacted for cyber protection