Tues 6/10/14 I tem #126 (R-2014-782)

RESOLUTION NUMBER R-309027

DATE OF FINAL PASSAGE JUN 2 3 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO FOR SETTLEMENT OF PROPERTY DAMAGE CLAIM OF JAMES A. AND MARGA JONES; AND DECLARING THIS DAY AS JAMES A. JONES SR. AND MARGA JONES DAY IN THE CITY OF SAN DIEGO

WHEREAS, during a severe rain storm on December 21, 2010, a City of San Diego storm drain failed in a City easement adjacent to 6453 El Camino del Teatro, property owned by James A. Jones Sr. and Marga Jones (together Jones); and

WHEREAS, the failure of the drain released large quantities of water on the Jones property, causing a mudslide which created a sinkhole in the private driveway and rendered the slope of the property unstable; and

WHEREAS, in January 2011, Jones filed a claim against City for the damage to property and for correction of the failed drain in the adjoining City right of way; and

WHEREAS, the parties engaged in settlement discussions before any litigation was filed on the claim, and the parties several times extended the litigation filing deadline to continue the discussions; and

WHEREAS, shortly after settlement discussions began, City engineers determined that the entire storm drain in the adjoining City right of way requires replacement, a determination entailing a City Capital Improvement Project (CIP) in the same slope that failed; and

WHEREAS, in addressing the claim, Jones remained patient and cooperative with the City with respect to the geotechnical, logistical, and practical realities of the situation, and agreed to forbear litigation while a comprehensive repair of both the public and private facets of the slope could be designed as part of City's CIP process; and

WHEREAS, the design of the slope repair has now been completed and the parties have reached agreement on the approach to repairing the Jones property while performing the replacement of the City drain; and

WHEREAS, Jones endured diminished use of private property, potential hazard, and substantial inconvenience for several years as the drain replacement CIP project was created and a comprehensive design completed; and

WHEREAS, both parties are advantaged by the combination of the public and private facets of the repair work since the same slope is involved; and

WHEREAS, the parties have agreed to a settlement of the property damage claim that will provide for the repair of the private parts of the slope in combination with the City's storm drain replacement, and for reasonable compensation to Jones for the lost use of property and costs associated with pursuing the claim; and

WHEREAS, in closed session on April 29, 2014, the City Council, by the following votes: Yeas, Districts 1,2,3,4,5,6,7,8; Nays None; and absent District 9, approved the settlement of the matter on the terms set forth below.

NOW, THEREFORE,

BE IT RESOLVED, that pursuant to settlement of the Jones claim for property damage at 6453 El Camino del Teatro on December 21, 2010, that the City Council of the City of San Diego authorizes the Mayor or his designee to pay the sum of \$142,018.50 from the Public Liability Fund, 720045, in settlement of each and every claim for damages, interest, costs and fees of any type, including, but not limited to, attorney fees, against the City of San Diego, its agents and employees resulting from the property damage claim of James and Marga Jones.

(R-2014-782)

BE IT FURTHER RESOLVED, the Chief Financial Officer is authorized to appropriate

and expend the amount of \$142,018.50 from the Public Liability Fund, 720045, contingent upon

the Chief Financial Officer first furnishing one or more certificates certifying that the funds

necessary for expenditure are, or will be, on deposit with the City Treasurer.

BE IT FURTHER RESOLVED, that the City Comptroller is authorized to issue one

check in the amount of \$142,018.50 made payable to James A. Jones, Sr.

BE IT FURTHER RESOLVED, that in consideration of James A. Jones Sr. and Marga

Jones having been such reasonable, understanding, and cooperative citizens in the settlement of

their valid claim, and for their patience with the lengthy process for fair resolution of this matter

without litigation, today is hereby declared to be James A. Jones Sr. and Marga Jones Day in the

City of San Diego.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

Deputy City Attorney

FMO:mt:js 5/21/2014

Or.Dept:Risk Management

CC No. 3000006989

Doc. No. 792405

	ELIZABETH S. MALAND City Clerk  By Man Jernande Deputy City Clerk
Approved: 6/19/2014 (date)	KEVIN L. FAULCONER, Mayor
Vetoed:(date)	KEVIN L. FAULCONER, Mayor

## The City of San Diego

				CERTIFICATE	of UNALLO	IED BAL	ANCE	ORIGINATING	CC DEPT. NO.:	3000006989 1515	
Į.·	HERËR'	CERTIEY that	the money red	illired for the allotm	ent of funds	for the n	urpose set forth in	the foregoing	-		
ıe Tre	asury, o	r is anticipated to	come into the	Treasury, and is o	therwise una	allotted.	acpose set total in	the follogoling	resolutio	ii is.avallable	
moun	t	*		<del></del>	<del>,</del>	•	•			·	
urpos	e:		Parity and the same of								
			*** *** *** *** ***	ter in the second			- A				
		<u></u>			<del>n de la constantion de</del>	· · · · · · · · · · · · · · · · · · ·					
		***************************************					- 101				
ate:		<del> </del>	By:								
			<u> </u>		CCOUNTING DAT		<u> </u>	OGMI TROLLE	. O DEFART		
Doc. tem	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS		riginal Amoun	
	# 8.PF = -	2 2	50 to		A		i	3,30		arginar Annoth	
	gg o la garage		The state of the s	Later to the second second	Salar Mark and	<u> میں مواد میں ۔</u> اور دو دو دو دو	<u> </u>			· .	
	<u> </u>		17 18		** ** ** ** ** ** ** ** ** ** ** ** **						
	a sugar	<u>                                      </u>	tagen and a second	25 25 25 25 25 25 25 25 25 25 25 25 25 2		<u>1 </u>		TOTAL AMO	DUNT	<del></del>	
										FUND OVERRIDE	
soluti inforn intrac	on, can nity with it, that su	be incurred with the requirement ifficient moneys	out the violation s of the Charte to meet the ob	n of any of the prov r of the City of San ligations of said cor	be incurred isions of the Diego, that itract are ac	I by the co Charter c sufficient tually in th	BALANCE ontract or agreemer of the City of San Di moneys have been the Treasury, or are	ego; and I do I appropriated f anticipated to	hereby fu or the pu come into	irther certify irpose of sai the Treasu	
esoluti onform ontrac the c oneys	on, can nity with it, that si redit of t anticipa	be incurred with the requirement ifficient moneys he appropriation	out the violation s of the Charle to meet the ob a from which the	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said	be incurred isions of the Diego, that itract are ac awn, and the I appropriati	I by the concentration of the	BALANCE ontract or agreemer of the City of San Di moneys have been	nt authorized b ego; and I do I appropriated f anticipated to Ilv in the Treas	hereby fu or the pu come into	irther certify irpose of sai the Treasu	
solution for interest on the coneys	on, can nity with it, that so redit of t s anticipa xceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into	out the violation sof the Charte to meet the ob- n from which the o the Treasury,	ss and obligation to n of any of the prov r of the City of San ligations of said cor e same are to be dr to the credit of said	be incurred isions of the Diego, that itract are ac awn, and the appropriati	I by the concentration of the	BALANCE  ontract or agreemer  of the City of San Di  moneys have been  ne Treasury, or are  I money now actual	nt authorized b ego; and I do I appropriated f anticipated to Ilv in the Treas	hereby fu or the pu come into	irther certify irpose of sai the Treasu	
solution for intraction the coneys of to E	on, can nity with it, that su redit of t s anticipa xceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into	out the violation sof the Charle to meet the ob from which the other the other the other the other the other treasury,	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.	be incurred isions of the Diego, that itract are ac awn, and the appropriati	I by the concentration of the	BALANCE  ontract or agreemer  of the City of San Di  moneys have been  ne Treasury, or are  I money now actual	nt authorized b ego; and I do I appropriated f anticipated to Ilv in the Treas	hereby fu or the pu come into	irther certify irpose of sai the Treasu	
solution for intraction the coneys	on, can nity with it, that su redit of t s anticipa xceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into	out the violation sof the Charle to meet the ob from which the other the other the other the other the other treasury,	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.	be incurred isions of the Diego, that itract are ac awn, and the appropriati	I by the concentration of the	BALANCE  ontract or agreemer  of the City of San Di  moneys have been  ne Treasury, or are  I money now actual	nt authorized b ego; and I do I appropriated f anticipated to Ilv in the Treas	hereby fu or the pu come into	irther certify irpose of sai the Treasu	
solution for intraction the coneys of to E	on, can nity with it, that su redit of t s anticipa xceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga	out the violation sof the Charle to meet the ob from which the other the other the other the other the other treasury,	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.	be incurred isions of the Diego, that itract are ac awn, and the appropriati	I by the concentration of the	BALANCE  ontract or agreemer  of the City of San Di  moneys have been  ne Treasury, or are  I money now actual	nt authorized b ego; and I do I appropriated f anticipated to Ilv in the Treas	hereby fu or the pu come into	irther certify irpose of sai the Treasu	
solution for intraction the coneys of the E	on, can nity with it, that su redit of t s anticipa xceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga	out the violation sof the Charle to meet the ob- from which the o the Treasury, Jones ht to James & Ma	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.	be incurred isions of the Diego, that itract are ac awn, and the appropriati	I by the concentration of the	BALANCE  ontract or agreemer  of the City of San Di  moneys have been  ne Treasury, or are  I money now actual	nt authorized bego; and I do I appropriated for anticipated to ally in the Treasered.	nereby fu or the pu come into ury, toge	inther certify roose of sai o the Treasu ther with the	
solution for incompanies on the coneys of to E andor:	on, can nity with it, that su redit of t s anticipa xceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga	out the violation sof the Charle to meet the ob- from which the o the Treasury, Jones ht to James & Ma	ss and obligation to n of any of the proving of the City of San ligations of said con same are to be dr to the credit of said \$142,018.	be incurred isions of the Diego, that itract are ac awn, and the appropriati	I by the co Charter c sufficient tually in that the said on, are of	BALANCE  Ontract of agreemer of the City of San Dimoneys have been no Treasury, or are il money now actual herwise unencumber.	nt authorized bego; and I do I appropriated for anticipated to anticipated to II in the Treasered.	nereby fu or the pu come into ury, toge	inther certify roose of sai of the Treasu ther with the	
solution for interest of the contract of the c	on, can nity with it, that s iredit of t s anticipa ixceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga To Pay settlemen	out the violation sof the Charte to meet the ob- n from which the othe Treasury, Jones ht to James & Ma	ss and obligation to n of any of the proving of the City of San ligations of said core same are to be dread to the credit of said \$142,018.3 arga Jones	be incurred sions of the Diego, that intract are acawn, and the diappropriation of the Counting Data	I by the concentration of the	BALANCE ontract or agreement the City of San Dimoneys have been be Treasury, or are dimoney now actual therwise unencumber.  By: Holly He	ego; and I do I appropriated for anticipated to anticipated to ally in the Treasered.	nereby fu or the pu come into cury, toge	orther certify ripose of sai of the Treasu ther with the	
solution for intraction for intraction for intraction for interest to be a solution for interest	on, can nity with it, that su redit of t s anticipa xceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga	out the violation sof the Charle to meet the ob- from which the o the Treasury, Jones ht to James & Ma	ss and obligation to n of any of the proving of the City of San ligations of said con same are to be dr to the credit of said \$142,018.	be incurred isions of the Diego, that itract are ac awn, and the dappropriation	I by the co Charter c sufficient tually in that the said on, are of	BALANCE  Ontract of agreemer of the City of San Dimoneys have been no Treasury, or are il money now actual herwise unencumber.	nt authorized bego; and I do I appropriated for anticipated to anticipated to II in the Treasered.	nereby fu or the pu come into cury, toge	rither certify ripose of sai of the Treasu ther with the	
solution for intraction for intraction for intraction for interest to be a solution for interest	on, can nity with it, that suredit of the santicipal exceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga To Pay settlemen	out the violation sof the Charte to meet the ob- n from which the othe Treasury, Jones ht to James & Ma	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.8  arga Jones  Type San	Die incurred islons of the Diego, that itract are action and the diego of the diego	Business	BALANCE ontract or agreement the City of San Dimoneys have been be Treasury, or are I money now actual therwise unencumber.  By: Holly He	ego; and I do I appropriated for anticipated to anticipated to ally in the Treasered.	nereby fu or the pu come into cury, toge	rither certify ripose of sai of the Treasu ther with the	
solution form of the contract	on, can nity with it, that suredit of the santicipal exceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga To Pay settlemen	out the violation sof the Charte to meet the ob- n from which the othe Treasury, Jones ht to James & Ma	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.8  arga Jones  Type San	Die incurred islons of the Diego, that it act are act awn, and that appropriation	Business	BALANCE ontract or agreement the City of San Dimoneys have been be Treasury, or are I money now actual therwise unencumber.  By: Holly He	ego; and I do I appropriated for anticipated to anticipated to ally in the Treasered.	nereby fu or the pu come into cury, toge	rither certify ripose of sai of the Treasu ther with the	
esolution for interest of the control of the contro	on, can nity with it, that suredit of the santicipal exceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga To Pay settlemen	out the violation sof the Charte to meet the ob- n from which the othe Treasury, Jones ht to James & Ma	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.8  arga Jones  Type San	Die incurred islons of the Diego, that it act are act awn, and that appropriation	Business	BALANCE ontract or agreement the City of San Dimoneys have been be Treasury, or are I money now actual therwise unencumber.  By: Holly He	ego; and I do I appropriated for anticipated to anticipated to ally in the Treasered.	nereby fu or the pu come into cury, toge	rither certify ripose of sai of the Treasu ther with the	
esolution for in one year of to E endor: urpose ate:	on, can nity with it, that suredit of the santicipal exceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga To Pay settlemen	out the violation sof the Charte to meet the ob- n from which the othe Treasury, Jones ht to James & Ma	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.8  arga Jones  Type San	Die incurred islons of the Diego, that it act are act awn, and that appropriation	Business	BALANCE ontract or agreement the City of San Dimoneys have been be Treasury, or are I money now actual therwise unencumber.  By: Holly He	nt authorized bego; and I do I appropriated fanticipated to Ily in the Treasered.  Trandez  COMPTRALE  WBS	hereby full or the pulcome into come	rither certify, ripose of sai of the Treasu ther with the ther with the result of the	
esolution for incompanies of the E endor: urpose ate:	on, can nity with it, that suredit of the santicipal exceed:	be incurred with the requirement ifficient moneys he appropriation ated to come into James & Marga To Pay settlemen	out the violation sof the Charte to meet the ob- n from which the othe Treasury, Jones ht to James & Ma	ss and obligation to n of any of the prov r of the City of San ligations of said cor same are to be dr to the credit of said \$142,018.8  arga Jones  Type San	Die incurred islons of the Diego, that it act are act awn, and that appropriation	Business	BALANCE ontract or agreement the City of San Dimoneys have been be Treasury, or are I money now actual therwise unencumber.  By: Holly He	ego; and I do I appropriated for anticipated to anticipated to ally in the Treasered.	hereby full or the pulcome into come	rither certify ripose of sai of the Treasu ther with the	

R-309027

Passed by the Council of	The City of San Diego on _	JUN 10 2	2014 , by the	e following vote:
Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	Z			, 0
Ed Harris	Z			
Todd Gloria				
Myrtle Cole				
Mark Kersey				
Lorie Zapf	$ ot \square$			
Scott Sherman				
David Alvarez	Z			
Marti Emerald	Z			
Date of final passage	JUN 2 3 2014			
	esolution is approved by the sreturned to the Office of			e is the date the
			KEVIN L. FAU	
AUTHENTICATED BY		May	yor of The City of Sa	in Diego, California.
(Seal)		City (	ELIZABETH S. Clerk of The City of	MALAND San Diego, California.
		Ву	lan Athon	Deputy
		٠ .		
		·	· · · · · · · · · · · · · · · · · · ·	
		Office of the	ne City Clerk, San l	Diego, California

Resolution Number R-

309027