

RESOLUTION NUMBER R- 309027

DATE OF FINAL PASSAGE JUN 23 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.

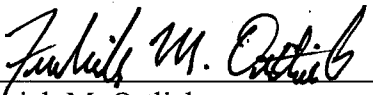
BE IT FURTHER RESOLVED, the Chief Financial Officer is authorized to appropriate and expend the amount of \$142,018.50 from the Public Liability Fund, 720045, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, 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



Frederick M. Ortlieb
Deputy City Attorney

FMO:mt:js
5/21/2014
Or.Dept:Risk Management
CC No. 3000006989
Doc. No. 792405

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~JUN 10 2014~~

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6/19/2014
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING DEPT. NO. CC 3000006989
1515

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: _____

Purpose: _____

Date: _____ By: _____

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original 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: \$142,018.50

Vendor: James & Marga Jones

Purpose: To Pay settlement to James & Marga Jones

Date: May 20, 2014 By: Holly Hernandez

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
01	720045			OTHR-00000000-GG	512007	1515	151500011		\$142,018.50
TOTAL AMOUNT									\$142,018.50

CC-361 (REV 7-09)

FUND OVERRIDE

CC 3000006989

JUN 10 2014

R-309027

Passed by the Council of The City of San Diego on JUN 10 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 23 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Mary Hernandez, Deputy

Office of the City Clerk, San Diego, California

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