

RESOLUTION NUMBER R- 311731

DATE OF FINAL PASSAGE MAY 01 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE DEFENSE REQUEST OF FRANK CARDENAS IN THE MATTER OF *JAZMIN GARCIA V. CITY SAN DIEGO, ET AL*; SAN DIEGO SUPERIOR COURT CASE NO. 37-2018-00003006-CU-OE-CTL

WHEREAS, on January 19, 2018, Jazmin Garcia (Plaintiff) filed suit against the City of San Diego (City) and former City employee Frank Cardenas, alleging, among other things, sexual harassment. Plaintiff brought suit in the San Diego Superior Court. The suit is entitled *Jazmin Garcia v. City of San Diego, et al.*, Case No 37-2018-00003006-CU-OE-CTL; and

WHEREAS, on March 23, 2018, Cardenas requested the City provide him with a defense to the above-entitled action; and

WHEREAS, except as otherwise provided in California Government Code (Government Code) sections 995.2 and 995.4, upon request of an employee, the City shall provide for the defense of any civil action or proceeding brought against the employee, in his official or individual capacity or both, on account of an act or omission in the scope of his employment as an employee of the City, under Government Code section 995; and

WHEREAS, the City may refuse to provide a defense under Government Code section 995.2 to an employee in a civil action or proceedings if the City determines any of the following:

1. The act or omission was not within the scope of employment;
2. The employee acted or failed to act because of actual fraud, corruption, or actual malice;


3. The defense of the action or proceeding by the public entity would create a specific conflict of interest between the public entity and the employee or former employee. For the purposes of this section, "specific conflict of interest" means a conflict of interest or an adverse or pecuniary interest, as specified by statute or by a rule or regulation of the public entity; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City of San Diego has denied Cardenas' defense request to *Jazmin Garcia v. City of San Diego, et al.*, Case No 37-2018-00003006-CU-OE-CTL, under Government Code section 995.2.

BE IT FURTHER RESOLVED, that the City Council has determined, based on the City Attorney report dated April 30, 2018, that Cardenas acted outside the scope of his employment with the City.

BE IT FURTHER RESOLVED, that the City Council has determined, based on the City Attorney report dated April 30, 2018, that to provide Cardenas with a defense would create a specific conflict of interest between the City and Cardenas.

APPROVED: MARA W. ELLIOTT, City Attorney

By 

Michael J. McGowan
Deputy City Attorney

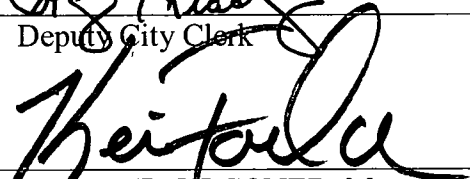
MJM:mc
April 30, 2018
Or.Dept: City Attorney
Doc. No.: 1729794

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of April 30, 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5/1/18
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 30 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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"/>
Chris Cate	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 01 2018

(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 , Deputy

Office of the City Clerk, San Diego, California

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