

Item 106
7.23.19

(R-2019-712)

RESOLUTION NUMBER R- 312579

DATE OF FINAL PASSAGE JUL 29 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE SETTLEMENT AGREEMENT BETWEEN PETITIONERS MURTAZA BAXAMUSA AND SAN DIEGO COUNTY BUILDING & CONSTRUCTION TRADES COUNCIL, AFL-CIO AND RESPONDENTS CIVIC SAN DIEGO AND THE CITY OF SAN DIEGO.

WHEREAS, on April 15, 2015, Petitioners Murtaza Baxamusa and San Diego County Building & Construction Trades Council, AFL-CIO filed suit against the City of San Diego alleging the City failed to properly manage its delegation of land use permitting and planning functions to Civic San Diego since 2012. The suit is entitled *Murtaza Baxamusa, San Diego County Building & Construction Trades Council, AFL-CIO v. Civic San Diego, City of San Diego*, San Diego Superior Court, Case No. 37-2015-00012092-CU-PT-CTL; and

WHEREAS, in closed session on March 19, 2019, the City Council, by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 8 and 9; Nays, 6 and 7; Absent, none, approved the settlement of Petitioners' claims for an amount consistent with the amounts set forth below and pursuant to such other terms more fully set forth in a settlement agreement, and contingent upon the presentation and approval of multiple discretionary actions in open session (including returning planning and permitting functions from Civic San Diego to the City by amending the City's Operating Agreement with Civic San Diego, and amending multiple Planned District Ordinances) which has now occurred; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council:

1. Authorizes the Mayor or his designee to pay the sum of \$700,000.00 from Public Liability Fund No. 720045, in settlement of each and every claim to costs and fees of any type, including attorneys' fees, against City of San Diego, its agents and employees, arising from


Murtaza Baxamusa, San Diego County Building & Construction Trades Council, AFL-CIO v. Civic San Diego, City of San Diego, San Diego Superior Court Case No. 37-2015-00012092-CU-PT-CTL.

2. Authorizes the Chief Financial Officer to expend to expend \$700,000.00 from the Public Liability Fund No. 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.

3. Authorizes the Comptroller to issue a check in the amount of \$700,000.00, made payable to The Coopersmith Law Firm IOLTA Client Trust Account.

APPROVED: MARA W. ELLIOTT, City Attorney


By


M. Travis Phelps
Chief Deputy City Attorney

MTP:msb
June 14, 2019
Or.Dept: City Attorney
CC No. 300012361
Doc. No.: 2011002

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 23 2019.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 7/29/19
(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: 3000012361
1211

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: _____ Fund: _____

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: _____ \$700,000.00

Vendor: The Coopersmith Law Firm IOLTA Client Trust Account

Purpose: Authorizing the expenditure of funds for the settlement of a claim filed by Murtaza Baxamusa, San Diego County Building & Construction Trades Council, AFL-CIO, Risk Management Claim No. 11201.

Date: June 27, 2019 By: Sonny Bautista
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	15150000:1		\$700,000.00
TOTAL AMOUNT									\$700,000.00

Passed by the Council of The City of San Diego on JUL 23 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<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"/>
Monica Montgomery	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 29 2019.

(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:

(Seal)

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

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

By *Cornie Patterson*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 312579