

#101
9/10/19

(R-2020-86)

RESOLUTION NUMBER R- 312645

DATE OF FINAL PASSAGE SEP 12 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN
MARCUS ALFARO, DERRIN AUSTIN AND PIPER
DENLINGER AND THE CITY OF SAN DIEGO

WHEREAS, Marcus Alfaro, Derrin Austin and Piper Denlinger [Plaintiffs] filed suit against the City of San Diego [City] alleging retaliation and overtime wages under the Fair Labor Standards Act. Plaintiffs brought suit in the United States District Court, Southern District of California. The suit is titled *Marcus Alfaro, et al. v. City of San Diego, et al* Case No. 17cv0046 H (KSC) [Litigation];

WHEREAS, on August 6, 2019, the City Council by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 9; Nays, 7; and Absent, 8, approved the settlement of the Litigation consistent with the amounts set forth below;

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 total sum of \$791,025.58 in settlement of each and every claim for unpaid overtime compensation, interest, costs, and fees of any type, including attorney fees, against City of San Diego, its agents and employees, arising from the complaint filed by Plaintiffs.
2. Authorizes the Chief Financial Officer to appropriate and expend \$397,730, for the payment of attorneys' fees and costs, 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 Department of Finance to issue a check in the amount of \$397,730 made payable to Conger Law, Inc., for the payment of attorneys' fees and costs.

4. Authorizes the Department of Finance to issue payroll checks in the total amount of \$393,295.58 to Plaintiffs individually based on the allocation below:

Marcus Alfaro in the gross amount of \$137,803.13;
Derrin Austin in the gross amount of \$124,010.79; and
Piper Denlinger in the gross amount of \$131,481.66;

All of the above payroll checks shall be subject to the normal wage withholdings for overtime compensation under the Fair Labor Standards Act. These payroll amounts will be paid from Fire-Rescue Department No. 1912, from the General Fund, Fund 100000.

APPROVED: MARA W. ELLIOTT, City Attorney

By Seetal Tejura
Seetal Tejura
Chief Deputy City Attorney

ST:my
July 30, 2019
Or.Dept:1400
CC No. 3000012480
Doc. No.: 2067456

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 10 2019.

ELIZABETH S. MALAND
City Clerk

By Linda Irwin
Deputy City Clerk

Approved: 9/12/19
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

The City of San Diego
COMPTROLLER'S CERTIFICATE

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING DEPT. 3000012480
 NO.: 1515, 9912

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: \$791,025.58 Fund: 720045 and 100000

Purpose: Settlement of a complaint entitled Marcus Alfaro, et al v. City of San Diego, et al., filed by three current employees of the Fire-Rescue Department for overtime wages under the Fair Labor Standards Act. Risk Mgmt Claim No. 16036.

Date: August 16, 2019 By: Justin Byko
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Fund	Funded Program	Internal Order	Functional Area	G/L Account	Business Area	Cost Center	WBS	Original Amount
1	720045			OTHR-00000000-GG	512007	1515	1515000011		\$397,730.00
2	100000			OTHR-00000000-GG	512066	9912	9912001313		\$393,295.58
TOTAL AMOUNT									\$791,025.58

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: _____

Vendor: _____

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									

Passed by the Council of The City of San Diego on SEP 10 2019 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"/>
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 checked="" type="checkbox"/>	<input 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 SEP 12 2019

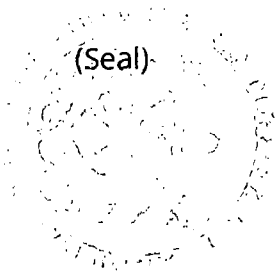
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

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

By Ginda Brune Deputy



Office of the City Clerk, San Diego, California

Resolution Number R- 312645