

RESOLUTION NUMBER R- **313876**

DATE OF FINAL PASSAGE FEB 02 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE SETTLEMENT OF OHL USA,  
INC. AND CITY OF SAN DIEGO

WHEREAS, on November 5, 2021, Plaintiff OHL USA, Inc. filed suit against the City of San Diego, alleging breach of contract related to the Morena Conveyance North project, entitled *OHL USA, Inc. v. City of San Diego, et al.* San Diego Superior Court Case No. 37-2021-00047189-CU-CO-CTL; and

WHEREAS, in closed session on January 11, 2022, the City Council, by the following votes: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, 8, and 9; Nays, none; Absent, none, approved settlement of Plaintiff's claims in the sum of \$5,900,000 and adding 44 working days into the contract;  
NOW, THEREFORE,

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

1. The Mayor or his designee to pay the sum of \$5,900,000 through Contract Change Order No. 1 from CIP A-LA.00001, Pure Water Program (B-15141, PWP Morena Conveyance), \$4,897,000 from Fund 700009, Metro Sewer CIP, and \$1,003,000 from Fund 700010, Water Utility CIP, and adding 44 working days into the contract in settlement of each and every claim for damages, interest, costs, and fees of any type, including attorney fees, against City of San Diego, its agents and employees, arising from the lawsuit entitled *OHL USA, Inc. v. City of San Diego*, San Diego County Superior Court Case No. 37-2021-00047189-CU-CO-CTL.

2. The Chief Financial Officer to expend an amount not to exceed \$5,900,000 from CIP A-LA.00001, Pure Water Program (B-15141, PWP Morena Conveyance), \$4,897,000 from Fund 700009, Metro Sewer CIP, and \$1,003,000 from Fund 700010, Water Utility CIP, for the purpose of settling this claim.

3. The Department of Finance to issue payment to OHL USA, Inc. based on the payment schedule set forth in Change Order No. 1.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jon E. Taylor  
Jon E. Taylor  
Senior Deputy City Attorney

JET:tr  
January 13, 2022  
Or.Dept: City Attorney  
CC No. 3000014523  
Doc. No.: 2860699

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 01 2022.

ELIZABETH S. MALAND  
City Clerk

By Connie Patterson  
Deputy City Clerk

Approved: 2/2/22  
(date)

Todd Gloria  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

**The City of San Diego  
COMPTROLLER'S CERTIFICATE**

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING

CC 3000014523  
DEPT. NO. 1211

Amount: \_\_\_\_\_

Purpose: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	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: \$5,900,000.00

Vendor: OHL USA, Inc.

Purpose: To authorize the expenditure of funds not to exceed \$5,900,000.00 to OHL USA, Inc. for Settlement v. City of San Diego, San Diego Superior Court Case No. 37- 2021-00047189-CU-CO-CTL, Risk No. 28375.

Date: January 18, 2022

By: DeJuan Lewis  
COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center or Cost Center	Internal Order or WBS Element	Original Amount
1	B15141	700009	NOT_RELEVANT_GRANT	512025	OTHR-00000000-PR	2012	2012111215	B-15141.06.01.02	\$4,897,000.00
2	B15141	700010	NOT_RELEVANT_GRANT	512025	OTHR-00000000-PR	2012	2012111215	B-15141.06.01.02	\$1,003,000.00
TOTAL AMOUNT									\$5,900,000.00

Passed by the Council of The City of San Diego on FEB 01 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 02 2022.

**(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:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

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

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

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