

RESOLUTION NUMBER R- 315857

DATE OF FINAL PASSAGE NOV 06 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN  
ORION CONSTRUCTION AND CITY OF SAN DIEGO

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. Plaintiff Orion Construction filed suit on August 3, 2023, against the City of San Diego, alleging breach of written contract arising out of a project called "AC Water & Sewer Group Job 1018," entitled *Orion Construction v. City of San Diego, et al.*, San Diego Superior Court Case No. 37-2023-00033084-CU-CO-CTL (Litigation).

B. In closed session on September 9, 2024, the City Council, by the following votes: Yeas, Districts 1, 3, 5, 6, 7, 8, and 9; Nays, None; and Absent, Districts 2 and 4, authorized settlement of the Litigation consistent with the amounts set forth below.

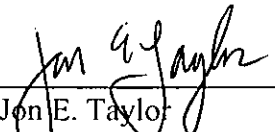
ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The Mayor or his designee is authorized to pay the sum of \$1,218,943.89 from Water Utility Fund 700010 and \$41,056.11 from Muni Sewer Fund 700008, for a total of \$1,260,000.00, 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 Litigation.

2. The Chief Financial Officer is authorized to appropriate and expend \$1,218,943.89 from Water Utility Fund 700010 and \$41,056.11 from Muni Sewer Fund 700008, for a total of \$1,260,000.00, for the purpose of settling this Litigation.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Jon E. Taylor  
Senior Deputy City Attorney

JET:sb  
September 17, 2024  
Or. Dept: City Attorney  
CC No. 3000017202  
Doc. No. 3800641

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~\_\_\_\_\_~~ **OCT 29 2024** ~~\_\_\_\_\_~~.

DIANA J.S. FUENTES  
City Clerk

By   
(Deputy City Clerk)

Approved: 11/4/24  
(date)

  
TODD GLORIA, Mayor

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

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

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

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING CC 3000017202  
 DEPT. NO. 2112

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	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: \$1,260,000.00

Vendor: Orion Construction

Purpose: To authorize the expenditure of funds not to exceed \$1,260,000 to settle litigation related Orion Construction v. City of San Diego, et al., San Diego Superior Court No. 37-2023-00033084-CU-CO-CTL, Claim No 23751.

Date: 10/9/2024

By: Travis Brady   
 COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA									
Doc. Item	Funded Program	Fund	Grant Number	G/L Account	Functional Area	Business Area	Fund Center	Internal Order or WBS Element	Original Amount
1	B16081	700010	NOT_RELEVANT_GRANT	512025	OTHR-00000000-WU	2013	2013171115	B16081.07.04	\$1,218,943.89
2	B16106	700008	NOT_RELEVANT_GRANT	512025	OTHR-00000000-SU	2011	2011131412	B16106.07.04	\$41,056.11
3									
4									
5									
6									
7									
8									
9									
TOTAL AMOUNT									\$1,260,000.00

CC-361 (REV 7-09)

FUND OVERRIDE

CC 3000017202

Passed by the Council of The City of San Diego on OCT 29 2024, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<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"/>
Kent Lee	<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 NOV 06 2024.

**(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.

DIANA J.S. FUENTES

\_\_\_\_\_  
(Seal)

City Clerk of The City of San Diego, California.

By Kristle Medina, Deputy

Office of the City Clerk, San Diego, California

**315857**

Resolution Number R-\_\_\_\_\_