

RESOLUTION NUMBER R- **316257**

DATE OF FINAL PASSAGE **JUN 12 2025**

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE SETTLEMENT BETWEEN  
DICK MILLER, INC., AND THE CITY OF SAN DIEGO.

RECITALS

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

A. On June 17, 2016, the City of San Diego (City) entered into construction contract K-16-1418-DBB-3 (Contract) with Dick Miller, Inc. (Contractor) for construction of the Sewer & Water GJ Crown Point South of La Playa project (Project).

B. The Project consists of relocating approximately 20,705 linear feet of sewer mains, replumbing approximately 196 sewer laterals, abandoning approximately 8,008 linear feet of sewer mains, replacing approximately 12,887 linear feet of water mains, and constructing associated improvements including curb ramps and street resurfacing.

C. On June 8, 2021, Council adopted San Diego Ordinance O-21330 (June 17, 2021), authorizing the obligations under the Contract to extend through June 20, 2022. On June 28, 2022, Council adopted San Diego Ordinance O-21470 (July 11, 2022), authorizing the obligations under the Contract to extend through June 20, 2024.

D. On August 22, 2023, Contractor filed a claim alleging, among other things, that the City's bidding documents were inadequate and failed to properly notify Contractor of the existing subsurface site conditions related to dewatering. The claim is on file with the Risk Management Department as Claim File No. 34399 (Claim). The City denied Contractor's allegations in their entirety.

E. In closed session on March 17, 2025, the Council approved the City's settlement of the lawsuit in the sum of \$807,505.62 by the following votes: Yeas, Districts 1, 2, 3, 4, 6, 7, 8, 9; Nays: None; Absent: District 5. The City negotiated the terms of a proposed settlement agreement, included in the docket materials accompanying this Resolution (Settlement Agreement).

F. The Settlement amount consists of payment of \$184,923.96 for completed but previously unpaid original contract work, payment of \$331,037.06 for extra work performed, and release of \$291,544.60 in retention.

G. The Office of the City Attorney prepared this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete and accurate.

#### ACTION ITEMS

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

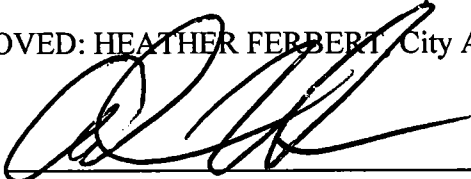
1. The Council approves the Settlement Agreement and authorizes the Mayor or designee to sign and deliver the Settlement Agreement on the City's behalf.

2. The Mayor or designee is authorized, on the City's behalf, to pay the sum of \$807,505.62 within the current contract budget from Purchase Order 4200000304, of which \$496,722.11 is from CIP A-JA.00001, Sewer Main Replacements, [B-10210, Sewer Group Crown Point], Fund 700008, Muni Sewer CIP, \$19,238.92 is from CIP A-KB.00003, Water Main Replacements, [B-13011, Water & Sewer Group Crown Pt/La Playa (W)], Fund 700010,

Water Utility CIP, and \$291,544.60 is retention held in escrow to settle each and every claim for damages, interest, costs, and fees of any type, including attorneys' fees, against the City of San Diego, its agents and employees, arising from the Claim.

APPROVED: HEATHER FERBERT, City Attorney

By



Adam R. Wander  
Deputy City Attorney

ARW:amt  
May 27, 2025  
Or.Dept: E&CP  
Doc. No. 4073321

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on  
JUN 09 2025

DIANA J.S. FUENTES  
City Clerk

By

  
Deputy City Clerk

Approved: \_\_\_\_\_

6/12/2025  
(date)

  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_

(date)

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

Passed by the Council of The City of San Diego on JUN 09 2025, 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 JUN 12 2025.

**(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)

DIANA I.S. FUENTES

City Clerk of The City of San Diego, California.

By Linda Irwin Deputy

Office of the City Clerk, San Diego, California

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