

CITY OF LOS ANGELES
CALIFORNIA

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Interim City Clerk



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MAYOR

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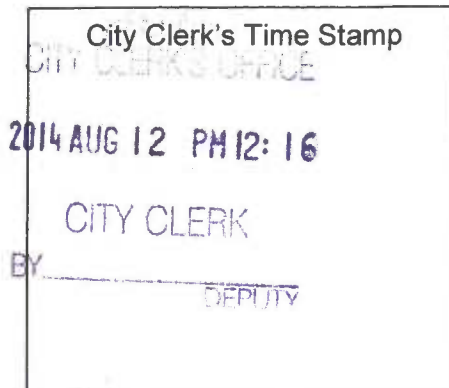
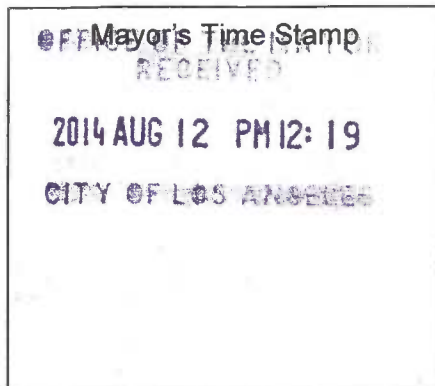
When making inquiries relative to
this matter, please refer to the
Council File No.

August 12, 2014

To All Interested Parties:

The City Council adopted the action(s), as attached, under Council File No. 14-0134, at its meeting held August 12, 2014.

City Clerk
wrq



FORTHWITH

SUBJECT TO THE MAYOR'S APPROVAL

COUNCIL FILE NO. 14-0134

COUNCIL DISTRICT

COUNCIL APPROVAL DATE August 12, 2014

RE: SETTLEMENT OF THE CASE ENTITLED, JOSE GRAVINA, ET AL. V. CITY OF LOS ANGELES, LOS ANGELES SUPERIOR COURT (LASC) CASE NO. BC356014

AUG 22 2014

LAST DAY FOR MAYOR TO ACT
(10 Day Charter requirement as per Charter Section 341)

DO NOT WRITE BELOW THIS LINE - FOR MAYOR USE ONLY

APPROVED

✓

*DISAPPROVED

*Transmit objections in writing
pursuant to Charter Section 341

DATE OF MAYOR APPROVAL OR DISAPPROVAL 8/12/14

EG
MAYOR

wrq

RECEIVED
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2014 AUG 12 PM 4:06
CITY CLERK
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33 14-0134

MOTION

For Tues. Aug. 12th, 2014

The City Council held a Closed Session on Wednesday, February 12, 2014, pursuant to authority provided in California Government Code Section 54956.9(d)(1), to confer with its legal counsel relative to class action litigation entitled *Jose Gravina, et al. v. City of Los Angeles*, Los Angeles Superior Court (LASC) Case No. BC356014 (Council File No. 14-0134). The matter involved litigation arising from claims made by the City's Bureau of Sanitation employees that the City failed to provide sanitation drivers with meal breaks in violation of state wage laws and wage orders.

Plaintiffs filed a class action complaint in this matter in 2006. After numerous motions and extensive discovery, on March 1, 2011, the Superior Court granted Gravina's Motion for Class Certification; thus approximately 1,074 current and former sanitation drivers became members of the class. On or about December 5, 2011, the Superior Court ruled that the City failed to provide its sanitation drivers with off-duty meal breaks as mandated by the California Labor Code and Wage Orders because of restrictions imposed upon drivers by the City during their meal breaks. On May 29, 2013, the Court of Appeal affirmed the judgment against the City, concluding that the sanitation meal breaks were a matter of statewide concern, thus holding that the City is subject to state compensation requirements despite the fact that it is a charter city. On September 18, 2013, the California Supreme Court denied the City's petition for review, effectively ending the City's ability to challenge the decision. During the pendency of the City's petition for review with the California Supreme Court, the parties negotiated a settlement. Although plaintiffs' likely damages were approximately \$40 million, the parties agreed to a settlement (pending Council and Court approval) in the amount of \$26 million, while the City's petition for review with the California Supreme Court was pending.

At the conclusion of the closed session held by City Council concerning this matter on February 12, 2014, City Council approved the settlement, which due to the nature of class action litigation, still would require court approval of any settlement negotiated by the parties. Although the "Brown Act" (Government Code section 54950, et seq.) requires that in most cases a settlement must be announced immediately after the legislative body of a local agency agrees to the settlement, Government Code section 54957.1(a)(3)(B) provides, "If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement." (Emphasis added.) As such, following the City Council's conditional approval of the settlement in the closed session held on February 12, 2014, no open-session announcement was made, nor was there a corresponding open-session vote to appropriate and transfer funds to effect the settlement. On July 17, 2014, the Superior Court conducted a fairness hearing on the class action settlement mentioned hereinabove, and entered final approval of the settlement agreement. This motion reflects the February 12, 2014 City Council action to authorize settlement of this matter, and effects the intent to appropriate and transfer funds to make payments, as ordered by Superior Court judgment dated July 17, 2014, to plaintiffs' counsel and to the third-party administrator, Simpluris, Inc.



I THEREFORE MOVE that the City Council, SUBJECT TO THE APPROVAL OF THE MAYOR, AUTHORIZE the City Attorney to expend \$26,000,000 in settlement of the case entitled, *Jose Gravina, et al. v. City of Los Angeles*, Los Angeles Superior Court (LASC) Case No. BC356014 (Council File No. 14-0134).

I FURTHER MOVE that the City Council AUTHORIZE AND INSTRUCT the Chief Accounting Officer for the Department of Public Works to increase the appropriation within the Solid Waste Resources Revenue Fund No. 508, Department 50, Account 50KX82, by \$26,000,000 from the available cash in Fund 508.

I FURTHER MOVE that the City Council AUTHORIZE AND INSTRUCT the Chief Accounting Officer for the Department of Public Works to draw demands from the Solid Waste Resources Revenue Fund No. 508, Department 50, Account 50KX82, payable as follows:

- (1) Law Offices of Michael D. Myers, P.C., in the amount of \$4,333,290.00;
- (2) Law Offices of Matthew L. Taylor, P.C., in the amount of \$4,333,290.00; and,
- (3) Simpluris, Inc., in the amount of \$17,333,420.00

I FURTHER MOVE that the City Attorney, or designee, be AUTHORIZED to prepare Controller instructions for any necessary technical adjustments, and subject to the approval of the City Administrative Officer, AUTHORIZE the Controller to implement the instructions.

PRESENTED BY



PAUL KREKORIAN
Councilman, 2nd District

SECONDED BY



ORIGINAL

AUG 08 2014

ADOPTED

AUG 12 2014

LOS ANGELES CITY COUNCIL

TO THE MAYOR FORTHWITH