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CITY OF OAKLAND



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June 2, 2015

HONORABLE CITY COUNCIL
Oakland, California

**Subject: Claim of Ellen Reier
City Attorney C30485
(Oakland Public Works Agency – Sewer Flood Loss)**

President Gibson McElhaney and Members of the City Council


Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and final settlement of the above-entitled claim for a total amount of One Hundred Ninety Two Thousand Six Hundred Fifty Five Dollars and Sixteen Cents (\$192,655.16). This includes the partial settlement amount previously authorized by Resolution No. 85507 C.M.S., which authorized partial payment of \$59,379.01.

The settlement funds shall be disbursed as follows: Checks payable to Ellen Reier in the amount of \$150,655.16 for clean-up and reconstruction costs; payments to Ellen Reier for \$2,400.00 each month for 12 months or until her residence is repaired and offered for sale, whichever is sooner (up to \$28,800.00); payment to the City of Oakland of \$13,200.00 to reimburse City of Oakland Sewer Fund (3100), Account #48412 for housing costs immediately following the sewer damage.

This action arises out of a sewer flood damage incident on February 18, 2015 which caused damage to claimant's property at 1200 Westview Drive. The flooding was caused by a failed City sewer main.

The Council authorized final settlement of this case in Closed Session on Tuesday, May 19, 2015 (moved by Councilmember Gallo and seconded by Councilmember Kalb – 7 Ayes, 1 Absent – Councilmember Reid).

Respectfully submitted,


BARBARA J. PARKER
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND


City Attorney's Office

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OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CLAIM OF ELLEN REIER (CLAIM NO. C30485) IN THE FINAL TOTAL SETTLEMENT AMOUNT OF ONE HUNDRED NINETY TWO THOUSAND SIX HUNDRED FIFTY FIVE DOLLARS AND SIXTEEN CENTS (\$192,655.16) WHICH RESULTED FROM PROPERTY DAMAGE DUE TO A FAILED CITY SEWER MAIN ON FEBRUARY 18, 2015 (PUBLIC WORKS AGENCY - DANGEROUS CONDITION/SEWERS)

WHEREAS, claimant has alleged that on February 18, 2015, a City sewer main failed and caused sewage flooding and damage to her property at 1200 West View Drive, and filed the above-entitled action seeking payment for said damages; and

WHEREAS, on April 21, 2015, per Resolution No. 85507 C.M.S., the City Council authorized a partial settlement to Ellen Reier in the amount of Fifty Nine Thousand Three Hundred Seventy Nine Dollars and One Cent (\$59,379.01) to cover reimbursement for sewage and damage remediation, furniture restoration, post-restoration air sampling and payments for rent going forward, as needed, for up to one year to be paid on a monthly basis at \$2,400.00 per month; and that the City Administrator be reimbursed Thirteen Thousand Two Hundred Dollars and No Cents (\$13,200.00) for temporary housing costs to date for Ellen Reier; and

WHEREAS, the City of Oakland has determined that final settlement in this matter to cover claimant's additional costs, without an admission of liability, is in the best interest of the City; now therefore, be it

RESOLVED: That the City Attorney is authorized and directed to settle the claim of Ellen Reier, (Claim No. C30485), in a final total settlement amount of One Hundred Ninety Two Thousand Six Hundred Fifty Five Dollars and Sixteen Cents (\$192,655.16), inclusive of the partial settlement amount previously authorized by Resolution No. 85507 C.M.S., of Fifty Nine Thousand Three Hundred Seventy Nine Dollars And One Cent (\$59,379.01); and be it

FURTHER RESOLVED: That the City Attorney is further authorized and directed to take whatever steps may be necessary to effect said settlement; and be it

FURTHER RESOLVED: That the sum of One Hundred Seventy Nine Thousand Four Hundred Fifty Five Dollars and Sixteen Cents (\$179,455.16), be made payable to Ellen Reier; and the sum of Thirteen Thousand Two Hundred Dollars and No Cents (\$13,200.00) be paid to City of Oakland to reimburse City of Oakland Sewer Fund (3100), Account #48412 for housing costs to relocate claimant immediately following the sewer damage;

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION-

Attest: _____

LATONDA SIMMONS
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA