

2011 FEB -3 PM 6:08

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TDD: (510) 839-6451

February 3, 2011


HONORABLE CITY COUNCIL
Oakland, California

President Larry Reid and Members of the City Council

Subject: STIPULATED ORDER FOR PRELIMINARY RELIEF IN THE
CASE OF UNITED STATES, ET AL. VS. THE CITY OF
ALAMEDA, ET AL., UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA, CASE No. C 09-05684
RS

Pursuant to Section 401 of the Charter, the City Attorney has negotiated a Stipulated Order For Preliminary Relief and recommends approval. This Stipulated Order For Preliminary Relief will be the subject of a Closed Session meeting item on February 15, 2011.

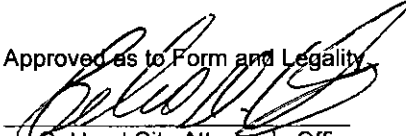
Respectfully submitted,


JOHN A. RUSSO
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

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Approved as to Form and Legality



Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION APPROVING THE STIPULATED ORDER FOR PRELIMINARY RELIEF AND THE PAYMENT OF \$10,000.00 IN ATTORNEY'S FEES AND COSTS TO THE SAN FRANCISCO BAY KEEPER, INTERVENOR-PLAINTIFF, IN THE CASE OF UNITED STATES, ET AL. VS. THE CITY OF ALAMEDA, ET AL., UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, CASE NO. C 09-05684 RS

WHEREAS, in early December 2009, the United States federal government (the Department of Justice and the Environmental Protection Agency) sued in Federal Court, the City of Oakland and five other East Bay cities, Alameda, Albany, Berkeley, Emeryville and Piedmont, plus the Stege Sanitary District ("Stege"), which serves the cities of Kensington, El Cerrito, and the Richmond "Annex, under the Clean Water Act, based upon sewer overflows in violation of the Clean Water Act, in the case "United States, et al. vs. City of Alameda, et al." United States District Court, Northern District of California, Case No. C 09-05684 RS; and

WHEREAS, the State of California, acting through the State Water Resources Control Board and the San Francisco Bay Regional Water Quality Control Board, will be joined as plaintiffs in the above entitled action on or about March 1, 2011; and

WHEREAS, the San Francisco Bay Keeper, a non-governmental organization citizen group, was allowed by the Federal Court to intervene in the above entitled action; and

WHEREAS, the parties to this action have negotiated and reached agreement on a full Stipulated Order that requires that Oakland and the other municipal entities perform flow studies, develop monitoring plans and sewer cleaning plans, overflow annual reports and sewer lateral line actions in the next three years; and

WHEREAS, as part of these negotiations with Intervenor-Plaintiff San Francisco Bay Keeper, the City of Oakland has agreed to pay Ten Thousand Dollars (\$10,000.00) in attorney's fees and costs; and

WHEREAS, on February 15, 2011, the City Council considered in Closed Session whether to approve the proposed Stipulated Order For Preliminary Relief and the payment of attorney's fees and costs to San Francisco Bay Keeper; and

WHEREAS, consistently with the direction provided by the City Council in Closed Session, the City Attorney's Office and counsels for the Plaintiffs have negotiated a Stipulated Order For Preliminary Relief; now therefore be it resolved

RESOLVED: The City Administrator, or his designee, is authorized to enter the Stipulated Order For Preliminary Relief described above, and to pay Ten Thousand Dollars (\$10,000.00) to San Francisco Bay Keeper for attorney's fees and costs, subject to final approval by the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER DE LA FUENTE, KERNIGHAN, NADEL, QUAN,
BROOKS, REID, KAPLAN, AND PRESIDENT REID

NOES –
ABSENT –
ABSTENTION –

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California