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February 15, 2011

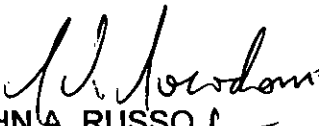
HONORABLE CITY COUNCIL  
Oakland, California

President Larry Reid and Members of the City Council

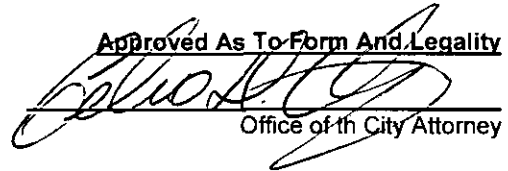
**Subject: Administrative Civil Liability Complaint  
No. R2-2009-0078  
State of California, California State Water Resources Control  
Board and San Francisco Bay Regional Water Quality  
Control Board**

Pursuant to Section 401 of the Charter, the City Attorney has negotiated an agreement and recommends settlement of the above-entitled complaint for the sum of Two Hundred Eight Thousand Dollars (\$280,000.00) in fines and costs, plus up to Twenty Thousand Dollars (\$20,000.00) to be paid to the San Francisco Estuary Partnership for monitoring of the City's Separate Environmental Project ("SEP"), which SEP is a condition of the settlement of this complaint, which was the subject of a Closed Session meeting item on February 1, 2011.

Respectfully submitted,

  
JOHN A. RUSSO for  
City Attorney

2011 FEB -3 PM 6:08

Approved As To Form And Legality  
  
Office of the City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R2-2009-0078, BROUGHT BY THE SAN FRANCISCO BAY REGIONAL WATER BOARD AGAINST THE CITY OF OAKLAND, FOR THE AMOUNT OF \$280,000.00 IN FINES AND COSTS, PLUS UP TO \$20,000 TO BE PAID TO THE SAN FRANCISCO ESTUARY PARTNERSHIP FOR MONITORING OF THE CITY'S SEPARATE ENVIRONMENTAL PROJECT**

**WHEREAS**, on January 26, 2010, an Administrative Civil Liability Complaint No. R2-2009-0078 ("ACL") was brought by the Regional Water Board against the City of Oakland alleging Oakland's failure to timely report to administrative agencies or in certain instances to accurately report amounts regarding eleven sanitary sewer overflows in violation of Oakland's National Pollution Discharge Elimination System permit and/or State of California reporting requirements promulgated in State Water Resources Control Board ("State Water Board") orders or Regional Water Board regulations issued under the California Water Code; and

**WHEREAS**, on February 1, 2011, the City Council considered in a Closed Session meeting whether to approve a settlement of the Administrative Civil Liability Complaint; and

**WHEREAS**, the City Attorney's Office and counsel for the Regional Water Board have negotiated and prepared a Settlement Agreement to resolve the Administrative Civil Liability Complaint;

**WHEREAS**, under the settlement the City will agree: 1) to a settlement amount of Two Hundred Eighty Thousand Dollars (\$280,000.00) - One Hundred Twenty Five Thousand Dollars (\$125,000.00) to be paid to the State of California, Regional Water Board for fines and costs, and One Hundred Twenty Five Thousand Dollars (\$125,000.00) City to use to construct environmental projects approved by the State Water Board, and 2) to pay the San Francisco Estuary Partnership up to Twenty Thousand (\$20,000.00) for their efforts to monitor progress of the City's environmental projects; now therefore be it resolved

**RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the Administrative Civil Liability Action brought by the Regional Water Board against the City of Oakland, for the sum of Two Hundred Eighty Thousand Dollars

(\$280,000.00) in fines and costs of which One Hundred Twenty Five Thousand Dollars (\$125,000.00) is to be used to construct City of Oakland environmental projects, plus up to Twenty Thousand Dollars (\$20,000.00) to be paid to the San Francisco Estuary Partnership for monitoring of the City's environmental projects; and be it

**FURTHER RESOLVED:** The City Administrator, or his designee, is authorized to execute a settlement agreement for the above purposes, subject to approval by the City Attorney, and be it

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

**FURTHER RESOLVED:** That the sum of Two Hundred Eight Thousand Dollars (\$280,000.00) in fines and costs be payable to the State of California, Regional Water Board, plus up to Twenty Thousand Dollars (\$20,000.00) be payable to the San Francisco Estuary Partnership for monitoring of the City's environmental project.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011

**PASSED BY THE FOLLOWING VOTE:**

**AYES-** DE LA FUENTE, KERNIHGAN, NADEL, BRUNNER, SCHAAF, BROOKS, KAPLAN and PRESIDENT REID

**NOES-**

**ABSENT-**

**ABSTENTION-**

**ATTEST:** \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California