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CITY OF OAKLAND



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

Office of the City Attorney
Barbara Parker
City Attorney

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

March 5, 2013

HONORABLE CITY COUNCIL
Oakland, California

Subject: City of Oakland v. Oakland Police and
Fire Retirement System, et al.
Alameda Superior Court Case No. RG 11580626

Dear President Kernighan 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 settlement of the appeal of the Police and Fire Retirement System and Police and Fire Retirement System Board from the judgment in above-entitled action.

In June 2011, the City of Oakland filed a lawsuit against the Oakland Police and Fire Retirement System ("PFRS") and the PFRS Board seeking a writ of mandate that would compel the Board (1) to make future pension payments to PFRS retirees in accordance with the Oakland City Charter and (2) to recover overpayments to PFRS retirees. The trial court entered judgment for the City. The PFRS Board appealed only the Court's determination that the City is not required to exhaust administrative remedies prior to filing a lawsuit.

The Charter mandates that PFRS retirees receive a pension that is a percentage of the "compensation attached to the rank" that current police officers (Actives) hold. PFRS retirees' pensions increase as "compensation attached to the rank" of Actives rises, and falls as "compensation attached to the rank" of Actives is reduced by the Council.

The Council approved a memorandum of understanding (MOU) between the City and the Oakland Police Officers Association ("OPOA") that reduced Actives' "compensation attached to the rank". However, the PFRS Board refused to adjust pension payments to reflect the reduction. In addition, the PFRS erroneously increased PFRS retirees' pension payments by considering holiday pay and shift pay to calculate retirement benefits although that compensation was not included the PFRS retirement plan.

MEETING OF THE
OAKLAND CITY COUNCIL

MAR 05 2013

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HONORABLE CITY COUNCIL

March 5, 2013

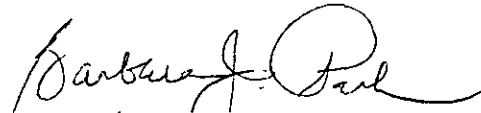
Subject: City of Oakland v. Oakland Police and Fire Retirement System, et al.

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The settlement agreement will establish a protocol to remain in effect for a period of five years whereby each party shall give the other 60-days written notice of a dispute prior to filing a lawsuit except in circumstances requiring immediate court action.

The Council authorized settlement in Closed Session on February 19, 2013 (6 ayes, 2 absent – Gibson McElhaney, Reid).

Respectfully submitted,


BARBARA PARKER
City Attorney

Attorney Assigned:
Kathleen Salem-Boyd

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MEETING OF THE
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MAR 05 2013

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OAKLAND

Barbara J. Parker
Office of the City Attorney

2013 FEB 22 AM 8:43

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE SINGLE ISSUE RAISED IN THE APPEAL BY THE POLICE AND FIRE RETIREMENT SYSTEM FROM JUDGMENT IN THE CASE OF CITY OF OAKLAND V. OAKLAND POLICE AND FIRE RETIREMENT SYSTEM, ET AL., ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG 11580626, BY ENTERING AN AGREEMENT WHEREBY THE PARTIES AGREE TO PROVIDE 60-DAYS WRITTEN NOTICE PRIOR TO FILING A LAWSUIT

WHEREAS, in June 2011, the City of Oakland filed the case of City Of Oakland v. Oakland Police and Fire Retirement System, et al., Alameda County Superior Court No. RG11580626, against the Oakland Police and Fire Retirement System ("PFRS") and the PFRS Board seeking a writ of mandate that would compel the Board (1) to make future pension payments to PFRS retirees in accordance with the Oakland City Charter and (2) to recover overpayments to PFRS retirees; and

WHEREAS, judgment in the case was entered in favor of the City on all issues; and

WHEREAS, after entry of judgment, the PFRS Board filed an appeal challenging the portion of the trial court's decision holding that the City is not required to exhaust administrative remedies prior to filing a legal action against the PFRS and the PFRS Board; and

WHEREAS, the City has determined to compromise and settle the appeal of PFRS and the PFRS Board by mutual agreement of the parties to each give the other written notice of disputes that could lead to litigation; and now therefore be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of City Of Oakland v. Oakland Police and Fire Retirement System, et al., Alameda County Superior Court No. RG11580626, by entry into a settlement agreement establishing a protocol to remain in effect for a period of five years whereby each party shall give to the other 60-days written notice of a dispute prior to filing a lawsuit in circumstances requiring immediate court action; and be it

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FURTHER RESOLVED: That the settlement agreement shall include a clear statement of the type of written notice required and to whom the 60-day written notice shall be sent; and be it

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

FURTHER RESOLVED: That this resolution shall take effect immediately upon passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF AND PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
CITY CLERK AND CLERK OF THE
COUNCIL OF THE CITY OF OAKLAND
7.4
MEETING OF THE
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MAR 05 2013