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CITY OF OAKLAND



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

Office of the City Attorney
John Russo
City Attorney

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June 7, 2011

HONORABLE CITY COUNCIL
Oakland, California

Subject: ***Martin Perlmutter, et al. v. East Bay Municipal Utility District, et al.***
Alameda County Superior Court Action No. RG-07-316213
Consolidated with Alameda County Superior Court Action Nos.
RG07320622 RG07334695 RG07350286
RG07320671 RG07355216 RG07323092
RG07326677

City Attorney File No. X02905 (OPW)

President Reid 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 settlement of the above-entitled action. Due to the risk of an adverse jury verdict under the circumstances settlement is recommended in the aggregate sum of Five Hundred ten Thousand Dollars and No Cents (\$510,000.00) payable to Plaintiffs and their counsel as follows:

- \$47,500 payable to John and Janet Broughton and the Leon & Leon Client Trust Account;
- \$25,000 payable to Faith Harris and the Craigie, McCarthy & Clow Client Trust Account;
- \$137,500 payable to The Fitzgerald, Abbott & Beasley Trust Account for the benefit of The Watchtower Bible and Tract Society of New York, Inc.;
- \$100,000 payable to Darelana Johnson and Gumbiner & Eskridge Client Trust Account;

HONORABLE CITY COUNCIL

Subject: *Martin Perlmutter, et al. v. City of Oakland, et al. and related cases*

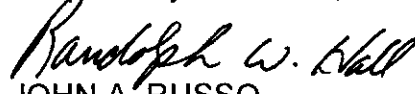
June 7, 2011

Page 2

- \$100,000 payable to Martin & Marcia Perlmutter and the Law Offices of Alan Matthew Mayer Client Trust Account;
- \$100,000 payable to The Fitzgerald, Abbott & Beardsley Trust Account for the benefit of Henry Royal, Valeria Royal, Cassandra Royal-Ross and Jack S. Ross

This action arises from an incident in May 2006, wherein the roadway at the intersection of E. 29th Street and McKillop Road failed along with the hillside adjoining properties abutting the public street. This matter was heard in closed session on May 17, 2011.

Respectfully submitted,



JOHN A. RUSSO

City Attorney

Attorney Assigned:
JAMES F. HODGKINS

OFFICE OF THE CITY CLERK
OAKLAND
FRIDAY 26 AM 10:03

James F. ...
Approved as to Form and Legality

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

JFH
JFH

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF MARTIN PERLMUTTER, ET AL. V. CITY OF OAKLAND, ET AL AND RELATED CASES, ALAMEDA COUNTY SUPERIOR COURT CASE NOS. RG-07-316213, RG07-320622, RG07-334695, RG07-350286, RG07-320671, RG07-355216, RG07-323092 AND RG07-326677 IN THE AGGREGATE AMOUNT OF \$510,000.00 AS A RESULT OF AN INCIDENT IN MAY 2006, WHEREIN THE ROADWAY AT THE INTERSECTION OF E. 29TH STREET AND MCKILLOP ROAD FAILED ALONG WITH THE HILLSIDE ADJOINING PROPERTIES ABUTTING THE PUBLIC STREET (OPW)

WHEREAS in May 2006 a landslide occurred in the area of McKillop Road and E. 29th Street in Oakland causing damage to City street and private homes; and

WHEREAS the City of Oakland has determined that settlement in this amount, without an admission of liability, is in the best interest of the City and now,

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Martin Perlmutter, et al. v. City of Oakland, et al and related cases, City Attorney's File No. X02905, for the aggregate sum of Five Hundred Ten Thousand Dollars and No Cents (\$510,000.00); 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 the aggregate sum of Five Hundred Ten Thousand Dollars and No Cents (\$510,000.00) be made payable to Plaintiffs and their counsel as follows:

- \$47,500 payable to John and Janet Broughton and the Leon & Leon Client Trust Account;
- \$25,000 payable to Faith Harris and the Craigie, McCarthy & Clow Client Trust Account;
- \$137,500 payable to The Fitzgerald, Abbott & Beardsley Trust Account for the benefit of The Watchtower Bible and Tract Society of New York, Inc.;
- \$100,000 payable to Darelana Johnson and Gumbiner & Eskridge Client Trust Account;
- \$100,000 payable to Martin & Marcia Perlmutter and the Law Offices of Alan Matthew Mayer Client Trust Account

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

MARTIN PERLMUTTER, ET AL. V. CITY OF OAKLAND, ET AL AND RELATED CASES

Page 2

- \$100,000 payable to The Fitzgerald, Abbott & Beardsley Trust Account for the benefit of Henry Royal, Valeria Royal, Cassandra Royal-Ross and Jack S. Ross.

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