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CITY OF OAKLAND



14 SEP 11 PM 1:38

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September 23, 2014

HONORABLE CITY COUNCIL
Oakland, California

Subject: RESOLUTION APPROVING PARTIAL SETTLEMENT OF IN RE MUNICIPAL DERIVATIVES ANTITRUST LITIGATION, UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK, MDL NO. 1950, AUTHORIZING ACCEPTANCE OF PAYMENT FROM BANK OF AMERICA MERRILL LYNCH OF \$325,000, IN EXCHANGE FOR DISMISSAL OF THE LAWSUIT BY THE CITY

Dear President Kernighan and Members of the City Council:

At closed session on July 29, 2014, the City Council considered a proposed partial settlement with Bank of America Merrill Lynch ("BofA") of In Re Municipal Derivatives Antitrust Litigation, MDL No. 1950,¹ filed by the City.

The lawsuit alleged that in violation of antitrust laws various financial institutions and brokers for their role in a longstanding conspiracy to fix prices and rig bids in the municipal derivatives industry. In parallel criminal proceedings, in exchange for immunity from criminal prosecution BofA entered the United States Department of

¹ The City of Oakland (City of Oakland v. AIG Financial Products Corp., United States District Court Case No. C 08-2116 MMC), and the County of Alameda filed separate actions in the Northern District of California, while the City of Fresno and the Fresno County Financing Authority each filed separate complaints in the Eastern District of California. All four of these cases were transferred by order of the Judicial Panel on Multidistrict Litigation to United States District Court Southern District of New York for pretrial coordination. For administrative purposes consistent with 14 U.S.C. § 1407, plaintiffs filed a joint amended complaint: In Re Municipal Derivatives Antitrust Litigation, MDL No. 1950.

HONORABLE CITY COUNCIL

September 23, 2014

Subject: Resolution Approving Partial Settlement of
City of Oakland v. In Re Municipal Derivatives Antitrust Litigation
MDL No. 1950

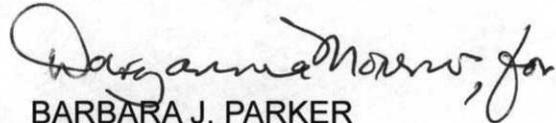
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Justice leniency program. In addition, six executives from UBS, a remaining defendant, and BofA were found guilty with respect to specific agreements.²

The settlement proposal was for the City to accept the payment from BofA of \$325,000, in exchange for dismissal with prejudice of the City's pending litigation.

The City Council accepted the settlement proposal. Accordingly, we have prepared this Resolution authorizing and directing the City Attorney to enter into a settlement agreement consistent with the terms of the settlement proposal to resolve the Action, and we request that the City Council adopt the Resolution.

Respectfully submitted,



BARBARA J. PARKER
City Attorney

Attorney(s) Assigned:
Kathleen Salem-Boyd

1457541.1

² Litigation will continue on Oakland's behalf against remaining defendants: UBS, JPM, Piper Jaffray, Societe Generale, National Westminster, Natixis, CDR, George K. Baum, and Sound Capital Management.

Approved as to Form and Legality
[Signature]
City Attorney's Office

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OAKLAND CITY COUNCIL

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Resolution No. _____ C.M.S.

RESOLUTION APPROVING PARTIAL SETTLEMENT OF IN RE MUNICIPAL DERIVATIVES ANTITRUST LITIGATION, UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK, MDL NO. 1950, AUTHORIZING ACCEPTANCE OF PAYMENT FROM BANK OF AMERICA MERRILL LYNCH OF \$325,000, IN EXCHANGE FOR DISMISSAL OF THE LAWSUIT BY THE CITY

WHEREAS, in 2008, the City filed City of Oakland v. AIG Financial Products Corp, United States District Court Case No. C 08-2116 MMC, alleging that in violation of antitrust laws various financial institutions and brokers for their role in a longstanding conspiracy to fix prices and rig bids in the municipal derivatives industry; and

WHEREAS, for administrative purposes consistent with 14 U.S.C. § 1407, the City of Oakland, County of Alameda, City of Fresno and Fresno County Financing Authority subsequently filed a joint amended complaint known as In Re Municipal Derivatives Antitrust Litigation, MDL No. 1950 (the Action), following transfer of their cases to United States District Court Southern District of New York; and

WHEREAS, on July 29, 2014, the City Council approved in closed session a settlement of the Action in which Bank of America Merrill Lynch would pay the City \$325,000 in exchange for dismissal of the Action by the City with prejudice; now, therefore, be it

RESOLVED: That the City Attorney is authorized and directed to partially settle In Re Municipal Derivatives Antitrust Litigation, MDL No. 1950, City Attorney Matter No. X03177, to accept payment in the amount of \$325,000 from Bank of America Merrill Lynch in exchange for dismissal with prejudice of the litigation by the City.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, KALB, GALLO, KAPLAN, REID, GIBSON MCELHANEY, SCHAAF and PRESIDENT KERNIGHAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

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