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Office of the City Attorney
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City Attorney

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July 6, 2004

HONORABLE CITY COUNCIL
Oakland, California

Subject: State of California v. City of Oakland
Alameda Superior Court Case No. 719712-5
(Office of Parks and Recreation)

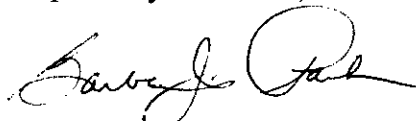
President De La Fuente and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney recommends that the City of Oakland enter into a modified judgment in the above reference case that would release the City from further attempts to replace and maintain riparian vegetation in the San Leandro Creek area located in the Lake Chabot golf course and, in lieu thereof, pay the Butters Land Trust the sum of twenty thousand dollars (\$20,000) for alternative creek preservation and restoration.

This case was discussed in closed session on June 15, 2004 and unanimously approved for settlement. (The motion passed with 8 ayes.)

The settlement is recommended to avoid potentially unlimited future costs for further attempts to replace and maintain the riparian vegetation and the additional exposure for attorney's fees and costs for actions to enforce the current judgment.

Respectfully submitted,

for 
JOHN A. RUSSO
City Attorney

Attorney Assigned:
Bruce Plebuch
Mark Wald
325773

10.900
CITY COUNCIL
JUL 6 2004

OAKLAND CITY COUNCIL

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RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF STATE OF CALIFORNIA v. CITY OF OAKLAND, ALAMEDA COUNTY SUPERIOR COURT CASE NO. 719712-5, BY ENTERING INTO A MODIFIED JUDGMENT RELEASING THE CITY FROM FURTHER RIPARIAN VEGETATION REPLACEMENT REQUIREMENTS IN EXCHANGE FOR A PAYMENT OF TWENTY THOUSAND DOLLARS (\$20,000.00) TO THE BUTTERS LAND TRUST.

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of State of California v. City of Oakland, Alameda Superior Court Case No. 719712-5, by entering into a modified judgment that would release the City from further attempts to replace and maintain riparian vegetation in the San Leandro Creek area located in the Lake Chabot golf course and, in lieu thereof, pay the Butters Land Trust the sum of Twenty Thousand Dollars (\$20,000) for alternative creek preservation and restoration.

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

FURTHER RESOLVED: That the sum of twenty Thousand Dollars and No Cents (\$20,000.00) be paid to the Butters Land Trust.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

10.9CC
OAKLAND CITY COUNCIL
JUL 6 2004

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California