

APPROVED AS TO FORM AND LEGALITY

2023 OCT 12 PM 2:05

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Barbara J. Parker
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89941 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF CALIFORNIA FAIR PLAN ASSOCIATION V. CITY OF OAKLAND, AND DOES 1 THROUGH 20 INCLUSIVE, ALAMEDA COUNTY SUPERIOR COURT CASE NO. 22CV006836, CITY ATTORNEY FILE NO. 34910, IN THE AMOUNT OF THIRTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$35,000.00) REGARDING DAMAGE THAT OCCURRED WHEN A LIMB/BRANCH FROM AN OFFICIAL CITY TREE FELL ONTO A HOME (DEPARTMENT OF PUBLIC WORKS – DANGEROUS CONDITION)

WHEREAS, Plaintiff California Fair Plan Association is the insurer for real property damage that occurred at 2201 Arrowhead Avenue in Oakland, CA on July 6, 2021, when a tree limb/branch broke off a 70-foot-tall Monterey pine tree and fell onto the house at that address, causing damage; and

WHEREAS, the tree is designed as an “official” City tree; and

WHEREAS, California Fair Plan Association paid approximately \$42,022.03 for the repair of the real property of its insured and incurred additional costs for a claimed damage total of \$55,701.58; and

WHEREAS, California Fair Plan Association filed Alameda County Superior Court Case No. 22CV006836, alleging that the tree was a dangerous condition of public property and alleging that the City’s acts and omissions related to the maintenance of the tree resulted in the damage to the real property; and

WHEREAS, the City has considered all the evidence, litigation costs and litigation risks in this case; and

WHEREAS, without admitting wrongdoing or liability, the City has determined to settle California Fair Plan Association’s claim against the City for the sum of Thirty-Five Thousand Dollars and No Cents (\$35,000.00); now, therefore, be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of California Fair Plan Association v. City of Oakland and DOES 1-20 Alameda County Superior Court Case No. 22CV006836, for the sum of Thirty-Five Thousand Dollars and No Cents (\$35,000.00); and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: **OCT 17 2023**

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS **-8**

NOES **0**
ABSENT **0**
ABSTENTION **0**

ATTEST:



ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California