



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF ROBERT ZOLLY, RAY MCFADDEN, AND STEPHEN CLAYTON V. CITY OF OAKLAND; AND DOES 1-50, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG16821376, CITY ATTORNEY FILE X04283, ON THE TERMS THAT INCLUDE, BUT ARE NOT LIMITED TO THE FOLLOWING:

- (1) THE CITY WILL ESTABLISH AN ADVISORY COMMITTEE THAT WILL ADVISE WITH RESPECT TO THE CITY'S WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENTS AND SERVICES. THE COMMITTEE WILL BE MAINTAINED FOR SEVEN YEARS OR ONE YEAR AFTER THE CONCLUSION OF THE NEXT REQUEST FOR PROPOSAL OR RENEWAL PROCESS FOR THE CONTRACTS;**
- (2) THE CITY WILL RECOMMEND TO THE COUNCIL FOR ITS CONSIDERATION A REPORT AND PROPOSAL TO AMEND CHAPTER 8.22 OF THE OAKLAND MUNICIPAL CODE TO ADD A PROVISION TO ALLOW LANDLORDS TO PETITION FOR RENT INCREASES BASED ON INCREASED COSTS OF WASTE SERVICES RATES; AND**
- (3) THE CITY WILL PAY PLAINTIFFS THE AMOUNT OF SEVEN HUNDRED TWENTY THOUSAND DOLLARS AND ZERO CENTS (\$720,000.00).**

(DEPARTMENT OF PUBLIC WORKS – DECLARATORY RELIEF)

WHEREAS, on August 13, 2014, the City Council of the City of Oakland approved Ordinance No. 13254 C.M.S., granting a Residential Recycling Collection Services franchise to California Waste Solutions, Inc. ("CWS") and providing that, in consideration for the special franchise right, CWS remit a yearly franchise fee of \$3,000,000, subject to annual adjustment; and

WHEREAS, on September 29, 2014, the City Council of the City of Oakland approved Ordinance No. 13258 C.M.S., granting a franchise for Mixed Materials and Organics Collection

Services to Waste Management of Alameda County (“WMAC”) and providing that, in consideration for the special franchise right, WMAC remit a yearly franchise fee of \$25,034,000, subject to annual adjustment; and

WHEREAS, on May 22, 2015, the City and CWS executed the “Residential Recycling Collection Services Contract,” effective July 1, 2025; and

WHEREAS, On February 20, 2015, the City and WMAC executed the “Mixed Materials & Organics Collections Services Contract,” effective July 1, 2025; and

WHEREAS, on June 29, 2016, Plaintiffs Robert Zolly, Ray McFadden, and Stephen Clayton (“Plaintiffs”) sued the City in an action captioned *Robert Zolly, Ray McFadden, and Stephen Clayton v. City of Oakland, Does 1-50*, Alameda County Superior Court Case No. 16821376, and filed a First Amended Complaint on December 29, 2016 and a Second Amended Complaint on August 28, 2017; and

WHEREAS, the final pleading is the Second Amended Complaint, which sets forth one cause of action for declaratory relief, wherein Plaintiffs allege that the franchise fees in the 2015 Mixed Materials & Organics Collections Services Contract and the 2015 Residential Recycling Collection Service Contract violate Article XIII of the California Constitution; and

WHEREAS, the City has considered all the evidence, litigation costs, and litigation risks in the case and determined that, to settle Plaintiffs’ claims, the City agrees to (1) establish an advisory committee that will advise with respect to the City’s waste and recycling collection franchise agreements and services, and maintain the committee for seven years or one year after the conclusion of the next request for proposal or renewal process for the contracts, (2) the City will recommend to the Council for its consideration at an open and public meeting, a report and proposal to amend Chapter 8.22 of the Oakland Municipal Code to add a provision to allow landlords to petition for rent increases based on increased costs of waste services rates; , and (3) pay Plaintiffs the amount of \$720,000; and

WHEREAS, the \$720,000 dollar payment to Plaintiffs will be for the following: \$200,000 to Plaintiffs and \$520,000 for Plaintiffs’ reasonable attorneys’ fees; and

WHEREAS, the City does not admit any wrongdoing or liability; now, therefore, be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle *Robert Zolly, Ray McFadden, and Stephen Clayton v. City of Oakland, Does 1-50*, Alameda County Superior Court Case No. 16821376, City Attorney File No. X04283, via a Settlement Agreement that includes the following: (1) establish an advisory committee that will advise with respect to the City’s waste and recycling collection franchise agreements and services and maintain the committee for seven years or one year after the conclusion of the next request for proposal or renewal process for the contracts, (2) the City will recommend to the Council for its consideration in at an open and public meeting, a report and proposal to amend chapter 8.22 of the Oakland Municipal Code to add a provision to allow landlords to petition for rent increases based on increased costs of waste services rates; and (3) pay Plaintiffs the amount of \$720,000; and be it

FURTHER RESOLVED: That the City Administrator is authorized and directed to issue settlement payments as negotiated by the City Attorney with Plaintiffs and Plaintiffs' counsel; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California