

16 NOV -2 PM 4:30

CITY OF OAKLAND



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November 29, 2016

HONORABLE CITY COUNCIL  
Oakland, California


**Re: Resolution Authorizing the City Attorney to Settle Claims and  
Litigation for Twenty-Five Thousand Dollars (\$25,000) or Less**

Dear President Gibson McElhaney and Members of the City Council:

City Charter section 401(6) provides that the City Attorney shall not settle claims or litigation unless authorized to do so by the City Council.<sup>1</sup> The City Attorney currently has authority to settle claims and litigation for five thousand dollars (\$5,000) or less, and has had this amount of authority for decades.

Given the diminishing value of the dollar in light of inflation and the City's interest in expediting and efficiently resolving claims and litigation, the City Council, City Administrator and the City Attorney have expressed their desire to increase the City Attorney's settlement authority to twenty-five thousand dollars (\$25,000). The attached resolution will authorize the City Attorney to settle claims and litigation for twenty-five dollars (\$25,000) or less.

Very truly yours,

  
BARBARA J. PARKER  
City Attorney

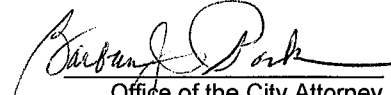
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<sup>1</sup> City Attorney has independent authority under certain laws to bring and to settle certain types of litigation, e.g., the Red Light Abatement Law (Penal Code section 11225-11235), specified public nuisances such as illegal weapons and drugs (Civil Code section 3485, 3486), Immigration Fraud (Business & Professions Code section 22445), and the Bane Act (Civil Rights) (Civil Code section 52).

FILED  
CITY OF THE CITY CLERK  
OAKLAND

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Approved as to Form and Legality

  
Office of the City Attorney

## OAKLAND CITY COUNCIL

**RESOLUTION NO. \_\_\_\_\_ C.M.S.**

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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**RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE  
CLAIMS AND LITIGATION FOR TWENTY FIVE THOUSAND DOLLARS  
(\$25,000) OR LESS**

**WHEREAS**, City Charter section 401(1) provides for the election of the Oakland City Attorney for a four year term; and

**WHEREAS**, City Charter section 401(6), entitled "Powers of the City Attorney" provides that the City Attorney shall serve as counsel to the Mayor, City Council, and each and every department of the City, except departments specifically enumerated by this Charter as an independent department of the City, in their official capacities pursuant to state law and the Charter, and as counsel, shall assert and maintain the attorney-client privilege pursuant to state law . . . and as counsel, shall assert and maintain the attorney-client privilege pursuant to state law; and

**WHEREAS**, section 401(6) further provides that the City Attorney "shall act as Counsel in behalf of the City or any of its officers, boards, commissions, or other agencies in litigation involving any of them in their official capacity; and "shall not settle or dismiss any litigation brought for the City nor settle any litigation brought against the City which may be under his control unless upon his written recommendation he or she is authorized to do so by the Council;" and

**WHEREAS**, the City Attorney has independent authority under certain laws to bring and to settle certain types of litigation, (e.g., the Red Light Abatement Law (Penal Code section 11225-11235), specified public nuisances such as illegal weapons and drugs (Civil Code section 3485, 3486), Immigration Fraud (Business & Professions Code section 22445), and the Bane Act (Civil Rights) (Civil Code section 52); and

**WHEREAS**, the City Council previously authorized the City Attorney to settle claims and litigation for amounts not to exceed five thousand dollars (\$5,000); and

**WHEREAS**, the City Council wishes to increase the City Attorney's authority to settle claims and litigation to twenty-five thousand dollars (\$25,000) to expedite and provide for more efficient resolution of such claims and litigation; and

**WHEREAS**, notwithstanding the twenty-five thousand dollar settlement authority, City Attorney nevertheless shall have the option of presenting high profile or controversial settlements to the City Council prior to approving the same; now, therefore, be it

**RESOLVED:** That pursuant to City Charter section 401(6), the City Council hereby authorizes the City Attorney to settle claims and litigation for an amount of twenty five thousand dollars (\$25,000) or less.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN,  
REID AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California