

FILED
OFFICE OF THE CITY CLERK
OAKLAND

22 JUL 21 PM 4:30

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
RESOLUTION NO. 89373 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF ANNE KIRKPATRICK V. CITY OF OAKLAND, UNITED STATES DISTRICT COURT CASE NO. 3:20-CV-05843, CITY ATTORNEY'S FILE NO. 34091, IN THE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$1,500,000.00) (MAYOR AND POLICE COMMISSION – WRONGFUL TERMINATION)

WHEREAS, on February 20, 2020, the Oakland Police Commission voted (7-0) to terminate Kirkpatrick without cause, and the Mayor joined the Commission in terminating Kirkpatrick without cause.

WHEREAS, Kirkpatrick's employment contract entitled Kirkpatrick to 12 months of compensation as severance in exchange for executing a standard release of all claims. Kirkpatrick rejected the severance and filed a wrongful termination lawsuit alleging that the termination decision was in retaliation for Kirkpatrick's alleged whistleblowing and protected speech (under the First Amendment);

WHEREAS, the case proceeded to trial from May 16-26, 2022. At trial, Kirkpatrick sought over \$3 million in economic damages and additional sums for non-economic (emotional distress) damages;

WHEREAS, the jury returned a verdict in favor of Kirkpatrick on the whistleblower claim and returned a verdict in favor of the City on the First Amendment claim; and

WHEREAS, the jury determined that the only damages Kirkpatrick suffered were equivalent to the severance payment Kirkpatrick would have received and the jury accordingly awarded \$337,635 (equivalent to one year of salary); and

WHEREAS, the \$1,500,000 settlement is comprised of the severance amount (\$337,635), Kirkpatrick's litigation costs (deposition and trial out-of-pocket expenses) of approximately \$250,000 and a portion of Kirkpatrick's attorneys' fees; and

WHEREAS, the City denies any wrongdoing or liability and does not admit any of Plaintiff's allegations; and

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

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of *Anne Kirkpatrick v. City of Oakland*, United States District Court Case No. 3:20-CV-05843, City Attorney File No. 34091, for the sum of One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00), which is comprised of the severance amount (\$337,635), Kirkpatrick's litigation costs (deposition and trial out-of-pocket expenses) of approximately \$250,000 and a portion of Kirkpatrick's attorneys' fees, payable to the Trust Account of Kecker, Van Nest & Peters on behalf of Anne Kirkpatrick; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

JUL 26 2022

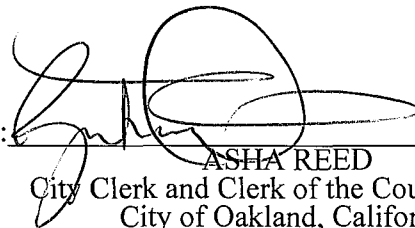
AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, ~~WILLIS~~ AND PRESIDENT - 7
FORTUNATO BAS

NOES - 0

ABSENT - 0

ABSTENTION - Thao - 1

ATTEST:


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