

# CITY OF OAKLAND



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December 5, 2023

HONORABLE CITY COUNCIL  
Oakland, California

**Subject:**     **Environmental Democracy Project (EDP) v. City of Oakland, City of Oakland Planning and Building Dept; City of Oakland Office of City Administrator; and DOES 1 through 20; I Metals, Inc. a California Corporation and DSM Management, Inc., a California Corporation (Real Parties in Interest)**  
**Alameda County Superior Court, Case No. 22CV020520**  
**City Attorney File No. X05462**  
**(Department of Planning & Building – California Environmental Quality Act)**

President Fortunato Bas and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and settlement of the above-entitled lawsuit for the monetary sum of Forty-One Thousand Three Hundred Fifty-Four Dollars and Zero Cents (\$41,354.00), payable to Plaintiff Environmental Democracy Project (“EDP”) in a manner specified by EDP’s counsel.

In addition to the monetary settlement to reimburse Plaintiff’s attorneys’ fees, the settlement of the lawsuit includes the following terms:

- Within one year of execution of the settlement agreement, City staff must bring to the City Council for its consideration proposed amendments to its ordinances that would:
  - o Provide the public with notice of all cannabis cultivation permit approvals;
  - o Allow members of the public to administratively appeal cannabis cultivation permits that would result in a cumulative total of at least 20,000 square feet of indoor cultivation at one parcel or address;
  - o Require applicants for at least 20,000 square feet of indoor cultivation to obtain confirmation from PG&E that it can handle the applicant’s load using PG&E protocols for load studies;
  - o Require cannabis cultivation applicants to obtain all legally required permits, including building, fire, and State cannabis permits;
  - o Require City staff to periodically inspect cannabis growth operations at least once a year;

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- o Require applicants for more than 20,000 cumulative square feet of growth to identify other such operators within 300 feet, and for the City to evaluate whether such other operators may result in certain cumulative impacts;
  - o Prohibit indoor cannabis operations within 600 feet of any schools or residential live-work uses; and
  - o Ban the use of fossil fuel generators for indoor cultivation (which the City already bans)
- The City must adopt express guidelines governing how it will exercise its discretion in taking enforcement actions for indoor cultivators who violate their permits or City ordinances.

The City determined that settlement as described above, without admitting liability and to avoid further litigation, is in the best interest of the City.

The City Council authorized settlement of this case in closed session on Thursday, November 16, 2023 (moved by Councilmember Janani Ramachandran and seconded by Councilmember Noel Gallo - 5 Ayes and 3 Excused – Council President Nikki Fortunato Bas, and Councilmembers Carroll Fife and Treva Reid)

Respectfully submitted,



BARBARA J. PARKER  
City Attorney

Assigned Attorney:  
Lorena Matei