

CITY OF OAKLAND



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July 2, 2024

HONORABLE CITY COUNCIL
Oakland, California

**Subject: Darwin BondGraham and Ali Winston v. City of Oakland, Oakland Police Department and Susan Manheimer
Alameda County Superior Court Case No. RG20071657
City Attorney File No. X05171
(Oakland Police Department – Public Records 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 attorneys' fees and costs in the above-entitled lawsuit for the sum of One Hundred Ninety-Nine Thousand Dollars and No Cents (\$199,000.00), payable to Ferguson Law PC.

This action arises out of a lawsuit alleging that the City of Oakland and Oakland Police Department violated the California Public Records Act, Government Code section 6250 et seq., and the Oakland Sunshine Ordinance section 2.20.010 et seq., in failing to promptly produce and redact Oakland Police Department personnel records. The court entered an order, on April 7, 2021 ("April 7, 2021 Order"), and a writ of mandate, on April 13, 2021 ("April 13, 2021 Writ of Mandate"), granting the Petition and ordering the City and Police Department to produce all responsive records. The court did not at that time address disputes over redactions, but rather set out a process for addressing disputed redactions in the documents already produced and in documents produced going forward.

On June 15, 2021 the Council passed Resolution 88700 C.M.S. authorizing and directing the City Attorney to compromise and settle Petitioners' attorneys' fees and costs for services provided up to the April 13, 2021 Writ of Mandate for the sum of \$125,204.50.

Following the passage of Resolution 88700 C.M.S., the parties engaged in extensive communications and made several appearances before the court pursuant to the redaction-challenge procedure, and ultimately the City and Police Department agreed to and were ordered to remove certain redactions and were permitted to retain others. On October 18, 2022 the City Council passed Resolution 89447 C.M.S. authorizing and directing the City Attorney to compromise and settle Petitioners' attorneys' fees and costs for services provided after the date of the court's entry of the April 13, 2021 Writ of Mandate and up to October 18, 2022, for the sum of \$105,000.00.

The prior settlement preserved Petitioners' pending appeal, *BondGraham v. Superior Court of Alameda*, First District Court of Appeal Case No. A165187, where Petitioners appealed certain rulings by the trial court regarding the City's redactions. On January 3, 2024, the First District Court of Appeal ruled

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in favor of the Petitioners and issued a peremptory writ of mandate which commanded the trial court to conduct additional proceedings. After extensive communications between the parties, in an effort to comply with the Court of Appeal's ruling, the City and Police Department have agreed to lift certain redactions and have been permitted to retain others.

Because they prevailed on their appeal, Petitioners are entitled to attorneys' fees and costs for services provided to Petitioners in their pursuit of their appeal. The City and Petitioners have agreed to settle the claim for those attorneys' fees in the amount of \$199,000.00.

The Council authorized settlement of attorneys' fees and costs in connection with Petitioners' appeal in closed session on Thursday, June 20, 2024 (moved by President Pro Tempore Dan Kalb and seconded by Councilmember Carroll Fife - 6 Ayes, 2 Excused - Councilmember Kevin Jenkins and Councilmember Janani Ramachandran).

Respectfully submitted,



BARBARA J. PARKER
City Attorney

Assigned Attorney
Michael Quirk