



2019 SEP -5 AM 4: 35

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September 17, 2019

HONORABLE CITY COUNCIL  
Oakland, California

**Subject: Friends of the Short Cut v. City of Oakland**  
**Case No. RG18920215**  
**City Attorney File No. X04601**  
**(Department of Transportation – CEQA; Attorneys' Fees**  
**After Judgment)**

President Kaplan 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 claim for the sum of Two Hundred Thirty Thousand Eight Hundred Seventy Eight Dollars and 89 Cents (\$230,878.89), plus interest from August 15, 2019, payable to Law Offices of Thomas N. Lippe, APC.

This action arises out of a CEQA challenge to a City capital improvement project to rehabilitate and make ADA compliant City stair path #137, between Alvarado Road and Tunnel Road adjacent to the Claremont Hotel, known as the Short Cut. Judgment was entered in favor of plaintiffs on May 15, 2019, and plaintiffs timely filed a motion for attorneys' fees as the prevailing party under Code of Civil Procedure section 1021.5 seeking \$287,901.61. The matter was set for hearing on August 15, 2019. The City disputes that Plaintiffs are entitled to all of these fees or the 1.5 multiplier they seek. However, the City has determined that the proposed fee settlement, which represents a discount of \$57,000 is in the best interests of the City.

The Council authorized settlement of this case in Closed Session on Tuesday, September 17, 2019.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. J. Parker for', written in a cursive, flowing style.

BARBARA J. PARKER  
City Attorney

2019 SEP -5 AM 4:36

  
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 *FRIENDS OF THE SHORT CUT V. CITY OF OAKLAND*, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG18920215, CITY ATTORNEY'S FILE NO. X04601, IN THE AMOUNT OF TWO HUNDRED THIRTY THOUSAND EIGHT HUNDRED SEVENTY EIGHT DOLLARS AND EIGHTY NINE CENTS (\$230,878.89) PLUS INTEREST FROM AUGUST 15, 2019 (DEPARTMENT OF TRANSPORTATION – CEQA)**

**WHEREAS**, this matter arises from a capital improvement project to rehabilitate and make ADA compliant City stair path #137, between Alvarado Road and Tunnel Road adjacent to the Claremont Hotel, known as the Short Cut, and Plaintiffs filed the above-referenced action alleging various CEQA violations; and

**WHEREAS**, the Superior Court entered judgment in Plaintiffs' favor on May 15, 2019 and Plaintiffs timely filed a motion for attorneys' fees pursuant to Code of Civil Procedure section 1021.5 seeking \$287,901.61; and

**WHEREAS**, the City disputes that Plaintiffs are entitled to the amount of fees they seek and to the multiplier upon which it is based, but has determined to compromise and settle Plaintiffs' attorneys' fees claims against it for the sum of \$230,878.89 plus interest from August 15, 2019, which represents a \$57,000 discount on the fees sought by Plaintiffs; now, therefore, be it

**RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the case of *Friends of the Short Cut v. City of Oakland*, Alameda Superior Court Case No. RG18920215, City Attorney's File No. x04601, for a sum not to exceed Two Hundred Thirty Thousand Eight Hundred Seventy Eight Dollars and Eighty Nine Cents (\$230,878.89) plus interest from August 15, 2019; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO,  
AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST:

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