

CITY OF OAKLAND



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May 5, 2020

HONORABLE CITY COUNCIL
Oakland, California

Subject: Progressive Solutions, Inc. (PSI) v. Michael Stanley, City of Oakland
United States District Court Case No. 16-CV-04805-SK
City Attorney File No. X04105-A
(Finance – Contract Dispute)

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-referenced case by accepting a reorganization plan that includes a dismissal of Progressive Solution, Inc.'s ("PSI") appeal in the Ninth Circuit and payment to the City in the amount of \$613,811.51 over five (5) years.

PSI filed the above-referenced case alleging that the City breached a software-related contract with PSI and misappropriated PSI's trade secrets. The City won summary judgment on PSI's claims, entitling the City to an award of \$977,000.00 in attorney's fees and costs, plus interest. PSI then appealed the judgment to the Ninth Circuit Court of Appeals (United States Court of Appeals for the Ninth Circuit, Case No. 18-15946) and is proceeding as a debtor in possession under the Small Business Reorganization Act of Chapter 11 of Title 11 of the United States Bankruptcy Code (United States Bankruptcy Court for the Central District of California, Case No. 18-BK-14277-SC). The City holds an allowed general unsecured proof of claim in PSI's chapter 11 case based on the District Court's award of attorney's fees and costs.

PSI has submitted a consensual reorganization plan that includes a dismissal of Plaintiff's appeal to the Ninth Circuit and payment to the City on its proof of claim in the amount of \$613,811.51 over five (5) years.

On April 30, 2020, the Council unanimously authorized settlement of this case in Closed Session on similar terms — a dismissal of the appeal and \$613,811.51 in payment (moved by Councilmember Noel Gallo and seconded by Vice Mayor Larry Reid – 8 Ayes).

Respectfully submitted,

A handwritten signature in blue ink that reads "Barbara J. Parker".

BARBARA J. PARKER
City Attorney

Assigned Attorney:
David Pereda

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