

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 88115 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF PROGRESSIVE SOLUTIONS, INC. (PSI) V. MICHAEL STANLEY, CITY OF OAKLAND, UNITED STATES DISTRICT COURT CASE NO. 16-CV-04805-SK, FILE NO. X04105-A, BY ACCEPTING PLAINTIFF'S REORGANIZATION PLAN THAT WOULD DISMISS PLAINTIFF'S APPEAL IN THE NINTH CIRCUIT AND PAY THE CITY \$613,811.51 OVER FIVE YEARS (FINANCE - CONTRACT DISPUTE)

WHEREAS, Plaintiff filed a lawsuit, United States District Court Case No. 16-CV-04805-SK, alleging that the City breached a software-related contract with Plaintiff and misappropriated Plaintiff's trade secrets, and the City denied those claims; and

WHEREAS, the City won summary judgement on Plaintiff's claims, entitling the City to an award of \$977,000.00 in attorney's fees and costs, plus interest; and

WHEREAS, Plaintiff 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); and

WHEREAS, the City holds an allowed general unsecured proof of claim in Plaintiff's chapter 11 case based on the District Court's award of attorney's fees and costs; and

WHEREAS, Plaintiff 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;

WHEREAS, the City admits no wrongdoing or liability; now, therefore be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle this matter by accepting a consensual reorganization plan that includes a dismissal of Plaintiff's appeal to the Ninth Circuit and payment to the City in the amount of \$613,811.51 over five (5) years;

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

IN COUNCIL, OAKLAND, CALIFORNIA,

MAY 12 2020

PASSED BY THE FOLLOWING VOTE:

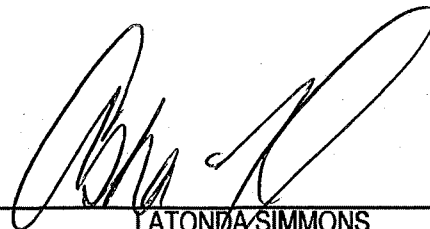
AYES - FORTUNATO, BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



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