

**MAY 20, 2021**

**CLOSED SESSION REPORT OF FINAL ACTION**

Date of Meeting: *Thursday, May 20, 2021*

Litigation Negotiations

**NAME OF ACTION:**

**Daniel Roth v. East Bay Municipal Utility District, a public entity, City of Oakland, a public entity, and DOES 1 to 50**  
**Alameda County Superior Court Case No. RG19005344**

This matter is listed as **Item No. 1(d)** on the Closed Session Agenda:

The council authorized settlement in the amount of **\$ 75,000.00.**

A motion to schedule this settlement resolution to the June 1, 2021 council meeting was moved by Councilmember Taylor, seconded by President Fortunato Bas, and approved by the following vote: 6 Ayes: Fife, Gallo, Kalb, Reed, Taylor, Bas Fortunato; 2 Absent: Kaplan, Thao.

This case arose out of incidents occurring on **January 4, 2018**

**FACTS/ISSUES:**

On January 4, 2018 Plaintiff Daniel Roth, while riding a motorized scooter, encountered a traffic diversion around an East Bay Municipal Utility District (“EBMUD”) construction site on Miles Avenue near the Rockridge BART station the forced Plaintiff to ride in a lane with vehicular traffic a parking lane. Plaintiff rode over a paving depression in the lane, was propelled forward, fell, and fractured their left knee. The paving depression was apparently caused by Knox Sewer and Backhoe Service, Inc. (“Knox”) when they replaced a private street lateral in 2012.

Plaintiff’s knee was repaired with a metal plate and screws and plaintiff endured a lengthy recovery and had to move out of the home shared with Plaintiff’s spouse and child because Plaintiff could not navigate the stairs. Plaintiff still has discomfort walking long distances and climbing stairs.

Plaintiff sued EBMUD, the City of Oakland and Knox alleging a paving defect in the street caused Plaintiff to lose control of the scooter, fall and suffer the fracture and related injuries. Plaintiff’s medical bills are approximately \$117,000 to date and Plaintiff claims future medical damages in the amount of \$100,500. This settlement will resolve all claims against defendant City in this matter.

Motion Authorizing Settlement Made by: **Councilmember Kalb**

Motion Seconded by: **Councilmember Gallo**

**AYES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas= 7**

**NOES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas**=

**ABSENT: ~~Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao~~ and ~~President Fortunato Bas~~**= 1

**ABSTENTIONS: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas**=