

November 2, 2023

**CLOSED SESSION REPORT OF FINAL ACTION**

Date of Meeting: *Thursday, November 2, 2023*

Litigation Negotiations

**NAME OF ACTION:**

**Lynne McDonald, et al. v. City of Oakland, et al.**  
**Alameda County Superior Court Case No. RG18931020**

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

The council authorized settlement in the amount of **\$118,000.00** payable to the City.

This case arose out of an incident occurring on **May 12, 2018.**

**FACTS/ISSUES:**

Plaintiffs Lynne McDonald and David Barr allege that on May 12, 2018 Lynne McDonald fell while riding a bicycle and was injured as a result of a pothole on Grizzly Peak Boulevard, approximately 400 yards south of the intersection with Lomas Contadas. Plaintiffs sued the City for dangerous condition of public property and Gallagher & Burk, Inc., the City's paving contractor, for negligence. The City filed a cross-complaint against Gallagher & Burk, alleging that it is obligated to defend and indemnify the City from Plaintiffs' claims. Gallagher & Burk subsequently settled any claims Plaintiffs have against the City by virtue of Gallagher & Burk's negligence. Plaintiffs' complaint against the City remains pending.

The City has now determined to settle its claim for litigation defense fees and costs against Gallagher & Burk, and any other claim remaining in its cross-complaint against Gallagher & Burk, in the amount of One Hundred Eighteen Thousand Dollars and Zero Cents (\$118,000.00), payable to the City.

Motion Made by: **Councilmember Ramachandran**

Motion Seconded by: **Councilmember Reid**

**AYES:** Fife, Gallo, Jenkins, Kalb, Kaplan, Ramachandran, Reid, and President Fortunato  
**Bas=7**

**NOES:** Fife, Gallo, Jenkins, Kalb, Kaplan, Ramachandran, Reid, and President Fortunato  
**Bas=**

**ABSENT:** Fife, Gallo, Jenkins, Kalb, Kaplan, Ramachandran, Reid, and President Fortunato  
**Bas=1**

**ABSTENTIONS:** Fife, Gallo, Jenkins, Kalb, Kaplan, Ramachandran, Reid, and President Fortunato  
**Bas=**