

06/14/2019

63-R-19

A RESOLUTION

**Authorizing the Settlement and Release of all Claims in
*R.J. O'Neil, Inc. v. City of Evanston, et al.***

WHEREAS, Case No. 2018-CH-15227 in the Circuit Court of Cook County, County Department, Chancery Division, concerns a lawsuit against the City of Evanston, Copenhagen Construction, Inc., and Western Surety Company, Inc. involving allegations of breach of contract and seeking a declaratory judgment issuing a mechanic's lien on the public funds for the City's Fountain Square Renovation Project; and

WHEREAS, the parties seek to settle and release all claims pursuant to the terms of a Release and Settlement Agreement ("Settlement Agreement") negotiated by attorneys of record in this litigation;

WHEREAS, the City will pay Plaintiff a settlement amount of approximately sixty-five thousand dollars (\$65,000.00) ("Settlement Payment") and the City will pay seventy thousand dollars (\$70,000.00) to Defendant Copenhagen Construction Inc., pursuant to the terms of the Settlement Agreement; and

WHEREAS, the City's payment to RJ O'Neil, Inc. and Copenhagen Construction, Inc. was already budgeted for within the Fountain Square Renovation Project and funds were withheld pursuant to this lawsuit;

WHEREAS, pursuant to the terms of the Settlement Agreement Plaintiff will obtain an order from the court dismissing with prejudice all claims brought against Defendants in Case No. 2018-CH-15227; and

WHEREAS, in compliance with Section 2(e) of the Open Meetings Act, 5 ILCS 120/2(e), the City must approve final action on settlement of this litigation in open session; and

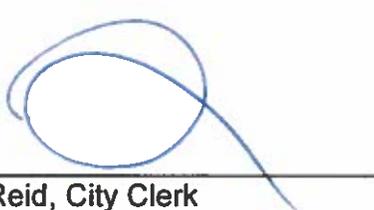
WHEREAS, issuance of the City's Settlement Payment is not an admission of liability.

NOW BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: The City is hereby authorized to approve settlement with Plaintiff and issue the City's Settlement Payment pursuant to the terms of the Settlement Agreement. The City's Settlement Payment is not an admission of liability.

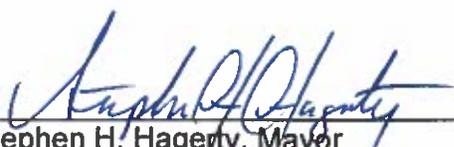
SECTION 2: Resolution 63-R-19 shall be in full force and effect from and after its passage and approval, in the manner provided by law.

Attest:



Devon Reid, City Clerk

Adopted: June 24, 2019



Stephen H. Hagerly, Mayor

Approved as to form:



Michelle L. Masoncup, Corporation Counsel