

CLOSED SESSION REPORTING OUT

Date of Meeting: **Monday, December 18, 2017**

Litigation Negotiations

NAME OF ACTION:

Ambac Bond Insurance Cases, JCCP 4555

San Francisco Superior Court Case No. CJC-08-004325

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

Council authorized receipt of settlement amount of: **\$50,000 - Net recovery approximately \$37,836.19 after deduction of costs and fees**

This case arose out of incidents that occurred: **prior to 2008**

FACTS/ISSUES:

In 2008, the City filed this lawsuit against various bond insurers - Ambac Assurance Corporation, Assured Guaranty Corp., Assured Guaranty Municipal Corp. (f/k/a Financial Security Assurance, Inc.)("FSA"), MBIA Inc., MBIA Insurance Corp., MBIA Insurance Corp. of Illinois, and Syncora Guarantee, Inc. (f/k/a XL Capital Assurance, Inc.), who conspired with each other and with the major credit rating agencies to maintain a dual rating system that unfairly rated pending municipal bond issuances lower than corporate bonds. This conspiracy violated the antitrust laws and forced Oakland and other municipalities to purchase bond insurance as a credit enhancement in order to issue bonds without having to offer extremely high interest rates. As a result of the conspiracy, the City suffered hundreds of thousands of dollars in damages because it had to pay higher rates for bond insurance. The complaint also alleges claims for fraud and breach of contract against two of the bond insurers, Syncora Guarantee, Inc. (f/k/a XL Capital Assurance, Inc.) and alleging that they failed to disclose their exposure to risky subprime debt and other financial instruments which caused the City's interest payments on its auction rate securities to spike and forced the City to engage in costly refundings of those issuances.

This settlement is with defendants MBIA Inc., MBIA Insurance Corporation, National Public Finance Guarantee Corporation, and Jason Kissane (collectively, "MBIA") in *Ambac Bond Insurance Cases, JCCP 4555*, San Francisco Superior Court Case No. CJC-08-004555 (City of Oakland v. Ambac Financial Group, Inc., et al., San Francisco Superior Court Case No. CGC-08-479241). In addition to this settlement, the City has received \$690,599.42 from settlements with other defendants.

Motion Made by: Councilmember Gibson McElhaney

Motion Seconded by: Councilmember Campbell-Washington

AYES: Brooks, Campbell-Washington, Gallo, Gibson McElhaney, Guillén, Kalb, Kaplan and President Reid = 8

NOES: Brooks, Campbell-Washington, Gallo, Gibson McElhaney, Guillén, Kalb, Kaplan and President Reid

ABSENT:

ABSTENTIONS: Brooks, Campbell-Washington, Gallo, Gibson McElhaney, Guillén, Kalb, Kaplan and President Reid =