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CITY OF OAKLAND



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City Attorney

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February 7, 2012

HONORABLE CITY COUNCIL
Oakland, California

**Subject: City of Berkeley v. City of Oakland (Gail Lowry v.
City of Berkeley, et al. and Related Cross-Actions)
Alameda County Superior Court No. RG10552946
Our File No. 28294 (PUBLIC WORKS AGENCY –
TRIP AND FALL)**

President Reid and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and settlement of the above-entitled action for the sum of Ten Thousand Dollars and No Cents (\$10,00.00) payable to Deans & Homer, the insurance carrier for Cross-complainants Steven Banker and Jennifer Banker.

This action arises out of a Plaintiff Gail Lowry's trip and fall on an uneven City of Oakland sidewalk in front of 2930 Domingo Avenue on March 22, 2009 and the related cross-complaints filed against the City. Settlement of this matter is recommended to avoid the risk of a more adverse jury verdict. This matter was not discussed at closed session.

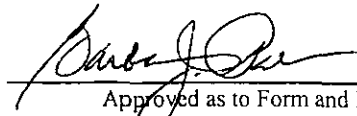
Respectfully submitted,

A handwritten signature in black ink that reads "Barbara J. Parker".

BARBARA J. PARKER
Acting City Attorney

Attorney Assigned:
Arlene M. Rosen
907588

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Approved as to Form and Legality

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF CITY OF BERKELEY V. CITY OF OAKLAND (GAIL LOWRY V. CITY OF BERKELEY, et al.), ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG10552946 IN THE AMOUNT OF \$10,000.00 (PUBLIC WORKS AGENCY – TRIP AND FALL)

WHEREAS: Cross-Complainants City of Berkeley and Steven and Jennifer Banker sued the City of Oakland for indemnity and contribution arising out of claims against them by Plaintiff Gail Lowry, who fell on an uneven sidewalk in front of 2930 Domingo Avenue, causing her serious injury;

WHEREAS: The City has determined to compromise and settle Cross-Complainants' claims against it for the sum of TenThousand Dollars and no Cents (\$10,000.00);

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of City of Berkeley v. City of Oakland, Alameda County Superior Court No. **RG10552946** and related cross-actions, City Attorney's File No. 28294 for a sum not to exceed Ten Thousand Dollars and no Cents (\$10,000.00), payable by the City of Oakland.

FURTHER RESOLVED: That the City Attorney is further authorized and directed to take whatever steps as may be necessary to effect said settlement; and be it

FURTHER RESOLVED: That the sum of TenThousand Dollars and no Cents (\$10,000.00), be paid to Deans & Homer, the insurance carrier for Cross-Complainants Steven Banker and Jennifer Banker.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2012

PASSED BY THE FOLLOWING VOTE:

- AYES-
- NOES-
- ABSENT-
- ABSTENTION-

ATTEST: _____
LATONDA SIMMONS

CITY CLERK AND CLERK OF THE
COUNCIL OF THE CITY OF OAKLAND