

CITY OF OAKLAND



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October 31, 2006

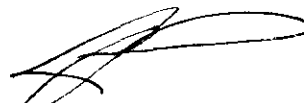
HONORABLE CITY COUNCIL
Oakland, California

Subject: Laverne Mainer v. City of Oakland, et al.
Alameda County Superior Court Case No. RG04152626
Our File No. 23617 (Public Works Agency – Trip and
Fall Accident)

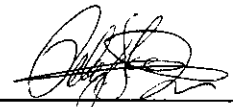
Pursuant to Section 401 of the Charter, the City Attorney has prepared a resolution authorizing and recommends settlement of the above-captioned matter, for the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00), payable to Plaintiff Laverne Mainer and Kim R. Clark, Esq., her attorney.

This action arises from plaintiffs' injuries and medical expenses incurred as a result of a trip and fall accident on San Leandro Street near 71st Avenue, Oakland, on August 15, 2003. This matter was not heard in closed session.

Respectfully submitted,


JOHN A. RUSSO
City Attorney

Attorney Assigned:
Pelayo A. Llamas, Jr.
384177



Approved as to Form and Legality

OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2006 OCT 19 AM 10:09

RESOLUTION No. _____ C.M.S.

PAL/

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF LAVERNE MAINER v. CITY OF OAKLAND, et al., SUPERIOR COURT, COUNTY OF ALAMEDA, CASE NO. RG04152626, IN THE AMOUNT OF \$15,000.00 AS A RESULT OF A TRIP AND FALL ACCIDENT IN THE VICINITY OF SAN LEANDRO STREET NEAR 71ST AVENUE, OAKLAND, AUGUST 15, 2003 (PUBLIC WORKS AGENCY – TRIP AND FALL ACCIDENT)

WHEREAS, on April 26, 2004, Laverne Mainer filed a lawsuit alleging, *inter alia*, that she tripped and fell after stepping in a hole in a driveway crossing the sidewalk on San Leandro Street, where a streetlight was allegedly out of service, causing her to sustain personal injuries and medical expenses; and

WHEREAS, on September 19, 2006, Laverne Mainer agreed to accept the amount of Fifteen Thousand Dollars and No Cents (\$15,000.00), conditioned on the City obtaining a court order determining the settlement to be in good faith and barring all claims for equitable indemnity and contribution (per Code of Civil Procedure section 877.6), subject to Oakland City Council approval, as full settlement of her claims against the City in this referenced action; and

WHEREAS, on October 17, 2006, the Superior Court issued an order finding the settlement to be in good faith; it is

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Lavern Mainer v. City of Oakland, et al., City Attorney's File No. 23617, for the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00); and be it

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

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FURTHER RESOLVED: That the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00) be payable to Plaintiff Laverne Mainer and Kim R. Clark, Esq., her attorney.

IN COUNCIL, OAKLAND, CALIFORNIA.

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California