

14 NOV -6 PM 12:56

CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara J Parker
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TDD: (510) 839-6451

November 18, 2014

HONORABLE CITY COUNCIL

Oakland, California

**Subject: Linda Smith v. City of Oakland
Alameda County Superior Court No. RG13-665558
City Attorney File No. 29295
(Public Works Department – Motor Vehicle Collision)**


President Kernighan and Members of the City Council:

Pursuant to Section 401 of the City Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and settlement of the above-entitled action. Due to the risk of an adverse jury verdict under the circumstances settlement is recommended in the sum of Two Million Dollars and No Cents (\$2,000,000.00) payable to Plaintiff Linda Smith and her attorney Joseph E. Tomasik.

This action arises from an incident on September 28, 2012, wherein a City employee, driving a City van struck plaintiff near 14th and Franklin Streets in Oakland.

The Council authorized settlement of this case in Closed Session on Wednesday, November 5, 2014 (moved by Councilmember Reid and seconded by Councilmember Kernighan – 7 Ayes, 1 Absent – Councilmember Gibson McElhaney).

Respectfully submitted,


BARBARA J. PARKER
City Attorney

14 NOV -6 PM 12:56


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF LINDA SMITH V. CITY OF OAKLAND, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG13-665558, IN THE AMOUNT OF TWO MILLION DOLLARS AND NO CENTS (\$2,000,000.00) AS A RESULT OF BEING STRUCK BY A CITY OWNED AND OPERATED VEHICLE ON OR ABOUT SEPTEMBER 28, 2012 (PUBLIC WORKS DEPARTMENT- MOTOR VEHICLE COLLISION)

WHEREAS, Linda Smith was struck by a City-owned vehicle, driven by a City employee, near 14th and Franklin Streets in the City of Oakland on September 28, 2012; and

WHEREAS, Linda Smith sustained severe injuries requiring medical treatment as a result of this accident; and

WHEREAS, Alameda County Superior Court Action RG13-665558 was filed against the City of Oakland alleging negligence and; and

WHEREAS, in order to avoid the risk of an adverse jury verdict under the circumstances; now therefore, be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Linda Smith v. City of Oakland, City Attorney's File No. 29295, for the sum of Two Million Dollars and No Cents (\$2,000,000); 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

FURTHER RESOLVED: That the sum of Two Million Dollars and no cents (\$2,000,000) be payable to Plaintiff Linda Smith and her attorney Joseph E. Tomasik.

IN COUNCIL, OAKLAND, CALIFORNIA

PASSED BY THE FOLLOWING VOTE

AYES BROOKS, KAPLAN, GALLO, KALB, GIBSON McELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES

ABSENT

ABSTENTION

ATTEST _____

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