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January 19, 2016

**HONORABLE CITY COUNCIL**  
Oakland, California

**Subject: Christopher Berg v. City of Oakland  
Alameda County Superior Court No. RG14-733306  
City Attorney File No. 29903  
(Oakland Public Works – Dangerous Condition)**

President Gibson-McElhaney 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 the 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 Sixty-Five Thousand Dollars and No Cents (\$65,000.00) payable to Plaintiff Christopher Berg and his attorney Scott D. Righthand. Longs Drugs, the co-defendant in this matter, is contributing an additional \$5,000.00 for a total settlement of \$70,000.00.

This action arises from an incident on July 15, 2013, wherein Mr. Berg was walking to the CVS drugstore at 3236 Lakeshore Avenue owned and operated by co-defendant Longs Drugs (named as defendant CVS Drugs in Plaintiff's complaint). Plaintiff was walking on the sidewalk when he claims he tripped and fell on an uplifted section of sidewalk, landing on his face. Plaintiff suffered injuries to his teeth and left hand (the latter requiring surgery) and wage losses as a result of the accident.

The Council authorized settlement of this case in Closed Session on Tuesday, January 5, 2016 (moved by Councilmember Noel Gallo and seconded by Councilmember Rebecca Kaplan – 8 Ayes).

Respectfully submitted,

  
BARBARA J. PARKER  
City Attorney

Attorney Assigned:  
Charles E. Vose

1790864

  
City Attorney's Office

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

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RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF CHRISTOPHER BERG v. CITY OF OAKLAND, ET AL, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG14-733306, IN THE AMOUNT OF SIXTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$65,000.00) AS A RESULT OF A TRIP AND FALL ACCIDENT ON JULY 15, 2013 (OAKLAND PUBLIC WORKS – DANGEROUS CONDITION)**

**WHEREAS**, Christopher Berg was injured when he tripped and fell on an uplifted section of sidewalk in front of 3236 Lakeshore Avenue in the City of Oakland on July 15, 2013; and

**WHEREAS**, Mr. Berg sustained injuries requiring medical treatment and lost wages as a result of this accident; and

**WHEREAS**, Alameda County Superior Court Action RG14-733306 was filed against the City of Oakland and Longs Drugs (CVS) alleging a dangerous condition of public property; 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 Christopher Berg v. City of Oakland, Et Al, RG14-733306, City Attorney's File No. 29903, for the sum of Sixty-Five Thousand Dollars and No Cents (\$65,000.00); 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

**FURTHER RESOLVED**: That the sum of Sixty-Five Thousand Dollars and No Cents (65,000.00) be payable to Plaintiff Christopher Berg and his attorney Scott D. Righthand.

IN COUNCIL, OAKLAND, CALIFORNIA

PASSED BY THE FOLLOWING VOTE:

AYES: BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES:

ABSENT:

ABSTENTION:

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California