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CITY OF OAKLAND



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Office of the City Attorney
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City Attorney

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July 17, 2012

HONORABLE CITY COUNCIL
Oakland, California

Subject: Rose Mellion, et al v. City of Oakland, et al
Alameda County Superior Court No. RG11-555270
City Attorney File No. 27659 (Public Works Agency – Tree Fell)

President Reid 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 City Attorney to compromise and settle the above-entitled action. Due to the risk of an adverse jury verdict under the circumstances settlement is recommended in the amount of Forty Five Thousand Dollars and No Cents (\$45,000.00) payable as follows: \$15,000 to Rose Mellion; \$15,000 to Felicia Williams; \$15,000 to Tanya Foster and Michael C. Cohen their attorney.

This action arises from an incident on August 14, 2009 wherein a branch from a City tree outside Plaintiffs' residence fell and struck Plaintiffs, injuring them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barbara J. Parker".

BARBARA J. PARKER
City Attorney

Attorney Assigned:
CHARLES E. VOSE
Outside Counsel
THOMAS GELINI

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OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

CEV

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF ROSE MELLION, ET AL v. CITY OF OAKLAND, ET AL, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG11-555270, IN THE AMOUNT OF \$45,000.00 AS A RESULT OF A TREE LIMB FALLING ON PLAINTIFFS ADJACENT TO 1710 34TH AVENUE IN OAKLAND ON AUGUST 14, 2009 (PUBLIC WORKS AGENCY – TREE DIVISION)

WHEREAS: On August 14, 2009, Plaintiffs Rose Mellion, Felicia Williams and Tanya Foster were injured by a falling branch from a City of Oakland tree adjacent to 1710 34th Avenue; and

WHEREAS: That Alameda County Superior Court Case No. RG11-555270 resulted from this incident wherein Plaintiffs allege that the tree constituted a dangerous condition of public property; and

WHEREAS: It is in the City's best interest to settle this case to avoid the possibility of an adverse jury verdict;

NOW, THEREFORE, BE IT RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Rose Mellion, et al v. City of Oakland, et al, City Attorney's File No. 27659, for the sum of Forty-Five Thousand Dollars and No Cents (\$45,000.00); 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 Forty-Five Thousand Dollars and No Cents (\$45,000.00) be payable as follows; Rose Mellion and her attorney Michael C. Cohen (\$15,000.00); Felicia Williams and her attorney Michael C. Cohen (\$15,000.00); Tanya Foster and her attorney Michael C. Cohen (\$15,000.00).

IN COUNCIL, OAKLAND, CALIFORNIA, _____ 2012

PASSED BY THE FOLLOWING VOTE:

AYES – DE LA FUENTE, KERNIGHAN, NADEL, BRUNNER, SCHAFF, BROOKS, KAPLAN and
PRESIDENT REID

NOES

ABSENT

ABSTENTION

ATTEST: _____

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