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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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November 1, 2016

HONORABLE CITY COUNCIL
Oakland, California

**Subject: *Michael Smith, by and through his Guardian Ad Litem
Danelle Cyrus v. City of Oakland
Alameda County Superior Court No. RG15778881
City Attorney File No. 30524
(Oakland Parks and Recreation – Dangerous Condition)***

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 the resolution authorizing compromise and settlement of the above-entitled claim for the sum of Sixty Thousand Dollars (\$60,000.00).

This case arises from a premises liability claim by then six-year-old Michael Smith and his mother Denelle Cyrus. On October 1, 2014, Michael was entering the restroom at Bushrod Recreation Center when the door slammed shut thereby severing the tip of Michael's index finger.

The Council authorized settlement of this case in Closed Session on Tuesday, October 18, 2016 (moved by Councilmember Larry Reid and seconded by Councilmember Noel Gallo – 7 Ayes, 2 Absent – Councilmembers Desley Brooks and President Lynette Gibson McElhaney).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barbara J. Parker".
BARBARA J. PARKER
City Attorney

Attorney Assigned:
Michelle M. Meyers

CITY OF OAKLAND
CITY ATTORNEY'S OFFICE
OAKLAND


City Attorney's Office

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OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF *MICHAEL SMITH, A MINOR BY AND THROUGH HIS GUARDIAN AD LITEM DANELLE CYRUS V. CITY OF OAKLAND, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG15778881, CITY ATTORNEY'S FILE NO. 30524, IN THE AMOUNT OF SIXTY THOUSAND DOLLARS AND ZERO CENTS (\$60,000.00) (OAKLAND PARKS AND RECREATION – DANGEROUS CONDITION)*

WHEREAS, Plaintiff Michael Smith alleges that he sustained injuries resulting from the restroom door at Bushrod Recreation Center on October 1, 2014; and

WHEREAS, Plaintiffs filed the above-referenced action to recover monetary damages; and

WHEREAS, without admitting fault or wrongdoing, the City has determined to compromise and settle Plaintiffs' claims against it for the sum of Sixty Thousand Dollars and No Cents (\$60,000.00); now, therefore, be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of *Michael Smith, by and through his Guardian Ad Litem Danelle Cyrus v. City of Oakland, Alameda County Superior Court Case No. RG15778881, City Attorney's File No. 30524*, for a sum not to exceed Sixty Thousand Dollars and No Cents (\$60,000.00) payable by the City of Oakland; and be it

FURTHER RESOLVED: That the City Attorney is further authorized and directed to take whatever steps necessary to effect said settlement.

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