



14 JUL -2 PM 1:49

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July 15, 2014

HONORABLE CITY COUNCIL  
Oakland, California

**Subject: Eloise Chitmon v. City of Oakland  
Alameda Superior Court Case No. RG12655533  
City Attorney File No. 29018 (PWA – Dangerous Condition)**

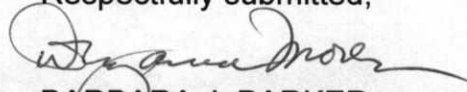
President Kernighan and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and settlement of the above-entitled claim for the sum of One Hundred Five Thousand Dollars and no Cents (\$105,000.00), payable to Eloise Chitmon and Sheppard, Uziel, Sussman & Rosen, her attorneys.

This action arises out of plaintiff Eloise Chitmon falling into an uncovered storm sewer at 30th and Filbert Streets on November 11, 2011. Plaintiff alleges that the uncovered storm sewer was a Dangerous Condition of Public Property under § 835 of California's Government Code and also a Public Nuisance under § 3479 of California's Civil Code.

The Council authorized settlement of this case in Closed Session on Tuesday, July 1, 2014 (moved by Councilmember Gibson McElhaney and seconded by Councilmember Kaplan – 6 Ayes; 1 Noe by Councilmember Schaff; and 1 Absent - Councilmember Reid).

Respectfully submitted,

  
BARBARA J. PARKER  
City Attorney

Attorney assigned:  
Wendy M. Garbers

*[Signature]*  
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 CHITMON V. CITY OF OAKLAND, ALAMEDA SUPERIOR COURT CASE NO. RG12655533, CITY ATTORNEY'S FILE NO. 29018, IN THE AMOUNT OF ONE HUNDRED FIVE THOUSAND DOLLARS (\$105,000.00) (PUBLIC WORKS AGENCY – DANGEROUS CONDITION)**

**WHEREAS**, Plaintiff Eloise Chitmon alleges that she fell into an uncovered storm sewer at 30th and Filbert Streets on November 11, 2011; and

**WHEREAS**, Plaintiff Eloise Chitmon filed the above referenced action to recover monetary damages for her alleged injuries; and

**WHEREAS**, without admitting fault or wrongdoing, the City has determined to compromise and settle Plaintiff Eloise Chitmon's claim against it for the sum of One Hundred Five Thousand Dollars and No Cents (\$105,000.00); now, therefore, be it

**RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the case of Eloise Chitmon v. City of Oakland, Alameda Superior Court Case No. RG12655533, City Attorney's File No. 29018, for a sum not to exceed One Hundred Five Thousand Dollars and No Cents (\$105,000.00) 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; and be it

**FURTHER RESOLVED:** That the sum of One Hundred Five Thousand Dollars and No Cents (\$105,000.00) be paid to Eloise Chitmon and Sheppard, Uziel, Sussman & Rosen, her attorneys.

IN COUNCIL, OAKLAND, CALIFORNIA,

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

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