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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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October 30, 2018

HONORABLE CITY COUNCIL
Oakland, California

Subject: Marcia Ewing v. City of Oakland, et al.
Alameda County Superior Court No. RG16842616
City Attorney File No. 31233
(Department of Transportation – Dangerous Condition)

President Larry 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 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 Seventy Five Thousand Dollars and No Cents (\$75,000.00) payable to Plaintiff Marcia Ewing and her attorney, Seth I. Rosenberg.

This action arises from an incident on December 2, 2015, wherein Marcia Ewing (60 years old) tripped over an edge of a sunken PG&E underground enclosure (a.k.a. Christy Box) in front of 3321 Lakeshore Avenue in Oakland.

The Council authorized settlement of this case in Closed Session on Monday, September 17, 2018 (moved by Councilmember Lynette Gibson McElhaney and seconded by Councilmember Rebecca Kaplan - 7 Ayes, 1 Absent (Councilmember Dan Kalb)).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Barbara J. Parker', written in a cursive style.

BARBARA J. PARKER
City Attorney

Attorney Assigned:
Christina Lum

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Approved as to Form and Legality

Barbara J. Stierke
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 MARCIA EWING v. CITY OF OAKLAND, ET AL, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG16842616, IN THE AMOUNT OF SEVENTY FIVE THOUSAND DOLLARS AND NO CENTS (\$75,000.00) AS A RESULT OF A TRIP AND FALL ACCIDENT ON DECEMBER 2, 2015 (DEPARTMENT OF TRANSPORTATION - DANGEROUS CONDITION)

WHEREAS, Marcia Ewing (60 years old) tripped over an edge of a sunken PG&E underground enclosure (a.k.a. Christy Box) in front of 3321 Lakeshore Avenue in Oakland on December 2, 2015; and

WHEREAS, Ms. Ewing allegedly sustained injuries requiring medical treatment as a result of this accident; and

WHEREAS, Alameda County Superior Court Action RG16842616 was filed against the City of Oakland alleging negligence; 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 Marcia Ewing v. City of Oakland, RG16842616, City Attorney's File No. 31233, for the sum of Seventy Five Thousand Dollars and No Cents (\$75,000.00); 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.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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