

14 MAR 20 PM 12:00

CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney  
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April 1, 2014

**HONORABLE CITY COUNCIL**  
Oakland, California

**Subject: Dulcey Bower v. City of Oakland, et al.  
Alameda County Superior Court No. RG12-634283  
City Attorney File No. 28770  
(Public Works Agency – Dangerous Condition/Bicycle  
Accident)**

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 action. Due to the risk of an adverse jury verdict under the circumstances settlement is recommended in the sum of Three Million Two Hundred Fifty Thousand Dollars and No Cents (\$3,250,000.00) payable to Plaintiff Dulcey Bower and her attorney Carter Zinn. The City will pay \$3,000,000.00 of the settlement. The remaining \$250,000.00 will be paid by the City's excess liability insurance company.

This action arises from an incident on August 7, 2011, wherein Ms. Bower was injured while riding her bicycle on Mountain Boulevard near the entrance to Highway 13. The bicycle struck a hole in the roadway, causing Ms. Bower to fall off of her bicycle and sustain serious injuries.

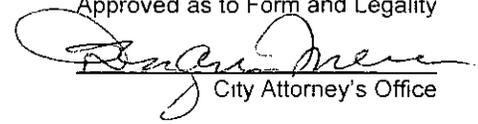
This matter was heard in closed session on March 18, 2014 (moved by Councilmember Gallo and seconded by Councilmember Gibson McElhaney – 7 ayes, 1 absent).

Respectfully submitted,

  
BARBARA J. PARKER  
City Attorney

Attorney Assigned: Charles E. Vose

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City Attorney's Office

# OAKLAND CITY COUNCIL

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

CEV

**RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF DULCEY BOWER v. CITY OF OAKLAND, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG12-634283, CITY ATTORNEY FILE NUMBER 28770, IN THE AMOUNT OF \$3,250,000.00 (PUBLIC WORKS AGENCY - DANGEROUS CONDITION/ BICYCLE ACCIDENT)**

**WHEREAS**, Dulcey Bower was seriously injured when a bicycle she was riding struck a deep pothole on Mountain Boulevard near the entrance to Highway 13 in the City of Oakland; and

**WHEREAS**, Ms. Bower sustained serious injuries requiring medical treatment as a result of this accident; and

**WHEREAS**, Alameda County Superior Court Action RG12-634283 was filed against the City of Oakland 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 Dulcey Bower v. City of Oakland, City Attorney's File No. 28770, for the sum of Three Million Two Hundred Fifty Thousand Dollars and No Cents (\$3,250,000.00); and be it

**FURTHER RESOLVED**: That the City of Oakland will pay Ms. Bower Three Million Dollars (\$3,000,000.00) of the settlement and the City's excess liability insurance carrier will pay the remaining Two-Hundred Fifty Thousand Dollars (\$250,000.00) of the settlement; 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 Three Million Dollars and No Cents (\$3,000,000.00) be payable to Plaintiff Dulcey Bower and her attorney Carter Zinn.

IN COUNCIL, OAKLAND, CALIFORNIA

PASSED BY THE FOLLOWING VOTE:

AYES: SCHAAF, BROOKS, KAPLAN, GALLO, KALB, GIBSON McELHANEY, REID and PRESIDENT KERNIGHAN

NOES:

ABSENT:

ABSTENTION

ATTEST. \_\_\_\_\_

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