

14 JUL 25 AM 9:30

CITY OF OAKLAND



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July 29, 2014

HONORABLE CITY COUNCIL
Oakland, California

**Subject: Dao The Diep v. PG&E; City of Oakland, et al.
Alameda County Superior Court No. RG12-645758
City Attorney File No. 28897
(Public Works Agency – Dangerous Condition/Trip & Fall)**


President Kernighan 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 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 Ten Thousand Dollars and No Cents (\$10,000.00) payable to Plaintiff Dao The Diep and his attorney Hien D. Doan.

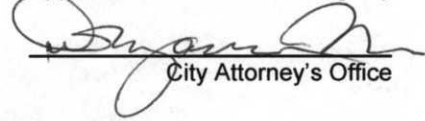
This action arises from an incident on September 11, 2011, wherein Mr. Diep was injured while riding a Segway near the intersection of Seventh and Jackson Streets in Oakland. The Segway drove over a sheet of plywood that was covering a large hole in the sidewalk. The plywood collapsed and Mr. Diep was injured when the Segway fell into the hole.

The Council authorized settlement of this case in Closed Session on Tuesday, July 29, 2014.

Respectfully submitted,


BARBARA J. PARKER
City Attorney

Item No.: S7.33
MEETING OF THE OAKLAND CITY COUNCIL
JULY 29, 2014


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 DAO THE DIEP v. CITY OF OAKLAND, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG12-645758, IN THE AMOUNT OF TEN THOUSAND DOLLARS AND NO CENTS (\$10,000.00) AS A RESULT OF A TRIP AND FALL ACCIDENT ON OR ABOUT SEPTEMBER 11, 2011 (PUBLIC WORKS AGENCY – DANGEROUS CONDITION/TRIP & FALL)

WHEREAS, Dao The Diep was seriously injured when he fell into an open utility box at the intersection of Seventh and Jackson Streets in the City of Oakland on September 11, 2011; and

WHEREAS, Mr. Diep sustained serious injuries requiring medical treatment as a result of this accident; and

WHEREAS, Alameda County Superior Court Action RG12-645758 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 Dao The Diep v. PG&E, City of Oakland, City Attorney's File No. 28897, for the sum of Ten Thousand Dollars and No Cents (\$10,000.00); 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 Ten Thousand Dollars and No Cents (\$10,000.00) be payable to Plaintiff Dao The Diep and his attorney Hien D. Doan.

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