

OAKLAND CITY COUNCIL

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

RESOLUTION NO. 78955 C.M.S. 2004 DEC -8 PM 4:23

WES/csa

**RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO SETTLE THE CASE OF CITY OF OAKLAND V. MULLER & CAULFIELD (PLAZA BUILDING LITIGATION), ALAMEDA COUNTY SUPERIOR COURT CASE NO. 2002-054084, OUR FILE NO. X01892, ON THE TERMS OUTLINED BELOW. THIS CASE INVOLVES CLAIMS FOR BREACH OF CONTRACT AND CONSTRUCTION DEFECTS ARISING OUT OF THE SALE OF THE PLAZA BUILDING (CEDA)**

**RESOLVED:** That the City Attorney is authorized and directed to settle the case of City of Oakland v. Muller & Caulfield, et al., Court Case No. 2002-054084, City Attorney's File No. X01892, on the following terms:

- Hensel Phelps Construction Company and two of its subcontractors will make a payment to the City of \$400,000 which will be passed through to the East Bay Community Foundation;
- the City will pay the East Bay Community Foundation \$100,000;
- the City will assign its claims against the designers and inspectors to the East Bay Community Foundation, which will then prosecute those claims at its own expense;
- the City and the East Bay Community Foundation will mutually forgive past rent owing each other, which has a net value to the East Bay Community Foundation of approximately \$95,000;
- the City, Hensel Phelps, and its subcontractors will receive full releases.

**FURTHER RESOLVED:** That the City Attorney is authorized and directed to take whatever steps necessary to effect the settlement; and be it

**FURTHER RESOLVED:** That the sum of One Hundred Thousand Dollars (\$100,000.00.) be payable to the East Bay Community Foundation and its attorney, Edwin Thomas.

DEC 21 2004

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BRUNNER, CHANG, DE LA FUENTE, MAYNE, NADEL, REID, QUAN, and WAN -8

NOES- ~~Ø~~

ABSENT- ~~Ø~~

ABSTENTION- ~~Ø~~

ATTEST: Atonda Simmons  
 GEDA FLOYD  
 City Clerk and Clerk of the Council  
 of the City of Oakland, California