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OAKLAND

2006 JAN -5 PM 2:32

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

79676

Resolution No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION AUTHORIZING AND DIRECTING CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF PACIFIC GAS AND ELECTRIC COMPANY v. CITY OF OAKLAND IN THE AMOUNT OF \$3,250,000 AS A RESULT OF LEGAL CHALLENGES ALLEGING IMPROPER TAXATION AND INVALID INDETERMINATE ELECTRIC FRANCHISE

WHEREAS, Pacific Gas and Electric Company ("PG&E") sued Oakland in Pacific Gas and Electric Company v. City of Oakland, Alameda County Superior Court Nos. 7926699-3 and 808136-4, alleging that Business Taxes were being improperly collected (the "Action"); the Superior Court entered judgment for PG&E requiring Oakland to refund the taxes, with interest and costs; the Court of Appeal affirmed (First Appellate District No. A095373, decision issued October 31, 2002); the California Supreme Court denied review; and the judgment in PG&E's favor is now final, binding and nonappealable, and;

WHEREAS, in the Action Oakland cross-complained to invalidate PG&E's indeterminate Oakland electric franchise, the Superior Court entered judgment for PG&E on the cross-complaint, and the Court of Appeal affirmed (First Appellate District No. A1 06634, decision issued November 8, 2005), and;

WHEREAS, PG&E and Oakland seek to amicably settle Oakland's payment obligations under the judgment; now, therefore, be it;

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Pacific Gas and Electric Company v. City of Oakland, Alameda County Superior Court Case Nos. 7926699-3 and 808136-4, for the sum of Three Million, Two Hundred Fifty Thousand Dollars and No Cents (\$3,250,000) made payable to Pacific Gas and Electric Company ("PG&E"), and the mutual exchange of comprehensive releases of all claims arising from or related to the complaint filed by PG&E alleging improper excessive taxation by the City and the cross-complaint filed by the City challenging the validity of PG&E's indeterminate, electric franchise; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator to allocate funds toward payment of the above-referenced settlement; and be it

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

FURTHER RESOLVED: That the sum of Three Million, Two Hundred Fifty Thousand Dollars and No Cents (\$3,250,000), as provided for herein, be paid to PG&E.

IN COUNCIL, OAKLAND, CALIFORNIA,

JAN 17 2006

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID,
CHANG, AND PRESIDENT DE LA FUENTE

NOES -
ABSENT -
ABSTENTION -

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ATTEST:

Latonda Simmons

LATONDA SIMMONS

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