



Office of the City Manager

CONSENT CALENDAR

November 28, 2006

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Manuela Albuquerque, City Attorney

Subject: Valentine v. City of Berkeley

RECOMMENDATION

Adopt a resolution approving the settlement of the Alameda County Superior Court Action No. RG 05 220900 entitled Valentine Corporation v. City of Berkeley in the amount of \$23,500.

FISCAL IMPACTS OF RECOMMENDATION

The City will spend \$23,500 from the Refuse Fund. Council approval is required for settlements exceeding \$15,000. (BMC section 7.12.020.)

Refuse Fund No. 820-5101-410.30-23 \$23,500

CURRENT SITUATION AND ITS EFFECTS

There is a pending lawsuit seeking damages.

BACKGROUND

This lawsuit arises from a claim for damages by a general contractor arising when the construction project was delayed 180 days because of the discovery of contaminated soil.

RATIONALE FOR RECOMMENDATION

The Council has already received a confidential memorandum reflecting the City Attorney's advice regarding this matter.

ALTERNATIVE ACTIONS CONSIDERED

These issues are discussed in the Confidential Memorandum to the Mayor and Council.

CONTACT PERSON

Manuela Albuquerque, City Attorney	981-6950
Michael K. Woo, Deputy City Attorney	981-6950

Attachment:
1:Resolution

RESOLUTION NO. ##,###-N.S.

AUTHORIZING THE CITY ATTORNEY TO SETTLE GENERAL LIABILITY LAWSUIT IN
THE MATTER OF VALENTINE CORPORATION V. CITY OF BERKELEY, ALAMEDA
COUNTY SUPERIOR COURT, ACTION NO. RG 05 220900

WHEREAS, a general liability lawsuit has been filed in the Alameda County Superior Court, Action No. RG 05 220900 against the City of Berkeley by Valentine Corporation arising from a claim for delay damages in connection with a construction project at the Berkeley Transfer Station; and

WHEREAS, it is in the best interests of the City of Berkeley to settle this lawsuit, and a settlement figure of \$23,500 has been reached by the City Attorney, plaintiff's attorney and plaintiff.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Attorney, in accordance with Section 7.12.020 of the Berkeley Municipal Code, to settle this matter by a payment of \$23,500 from Refuse Fund 820-5101-410.30-23, to plaintiff Valentine Corporation, in settlement of the claim against the City as alleged in the above-entitled lawsuit.