

OAKLAND CITY COUNCIL

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ORDINANCE No. 12306 C.M.S.

AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN REAL PROPERTY INTEREST LOCATED AT 40 98TH AVENUE, OAKLAND, COUNTY OF ALAMEDA FOR THE AIRPORT ROADWAY PROJECT, WIDENING AND IMPROVEMENT OF 98TH AVENUE COMPONENT, IN THE AMOUNT OF \$161,000.00 PLUS INTEREST AND COURT COSTS, BUT EXCLUDING ATTORNEY FEES, TO RAY FERRARIS, JR. AND NINA FERRARIS, IN THE AMOUNT OF \$125,000.00 TO GROVER EAKMAN, INCLUDING ALL COSTS, INTEREST AND ATTORNEYS FEES

WHEREAS, in order to facilitate the portion of the Airport Roadway Project along 98th Avenue, the City has filed a condemnation action to acquire portions of the property located at 40 98th Avenue (the "Property") City of Oakland v. Ray Ferraris, Jr. et al., Alameda County Superior Court No. 810080-7; and

WHEREAS, Grover Eakman ("Eakman") leased the Property from Ray Ferraris, Jr. and Nina M. Ferraris (together referred to herein as "Ferraris"), and Eakman uses said property for the rental of automobiles to the public; and

WHEREAS, the City named Ferraris as defendants in this action so as to acquire their ownership interests in the property, and named Eakman as a defendant in this action so as to acquire his leasehold interest in the property; and

WHEREAS, the Airport Roadway Project, in Resolutions No. 74343, dated July 23, 1998, authorized City staff to initiate acquisition, site clearance and relocation activities; and

WHEREAS, the City, by resolution of the City Council on November __, 2000 approved a settlement of the condemnation action with both Ferraris and Eakman; and

WHEREAS, the City filed an eminent domain action to acquire Ferraris' and Eakman's interests in the Property, and Ferraris and Eakman and the City have each agreed to settle the action as follows:

Eakman has agreed to relinquish his interests and waive any and all claims against the City arising out of the condemnation action, including but not limited to, all court costs, interest, attorneys fees, litigation expenses, land, improvements, fixtures and equipment and personal property, loss of goodwill, relocation benefits, and bonus value in consideration for payment by the City to Eakman in the amount of \$125,000.00, plus an additional payment of \$40.00 per day commencing on April 1, 2001 for each day after March 31, 2001 that

the City fails to return the property that is subject to the temporary construction easement; and

Ferraris has agreed to relinquish their interests and waive any and all claims against the City arising out of the condemnation action, including all court costs, attorneys fees, litigation expenses, land improvements, fixtures and equipment, personal property, loss of goodwill, relocation benefits and bonus value in consideration for payment by the City to Ferraris in the amount of \$161,000 plus interest and court costs, but excluding attorney fees.

WHEREAS, the project committee overseeing the administration of the Airport Roadway Project, pursuant to the agreements among the project sponsors, the City, the Port of Oakland, the City of Alameda and the Alameda County Transportation Authority, has approved acquisition of the Eakman's and Ferraris' interests in the Property for the amount described below, and the expenditure of project funds for that acquisition, now therefore

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1: That the City hereby finds and declares that the requirements of the California Environmental Quality Act (CEQA) of 1970, the State CEQA Guidelines, and the City CEQA Procedures have been satisfied;

SECTION 2: The City Manager or his designee is authorized to execute such documents and take such other steps as may be necessary to acquire Eakman's interests in the Property as described in the attached Exhibit A to this resolution, for an amount not to exceed \$125,000.00, including interest thereon, court costs, and attorneys fees, plus an additional payment of \$40.00 per day commencing on April 1, 2001 for each day after March 31, 2001 that the City fails to return the Property that is subject to the temporary construction easement;

SECTION 3: The City Manager or his designee is authorized to execute such documents and take such other steps as may be necessary to acquire Ferraris' interests in the Property as described in Exhibit B to this resolution, for an amount not to exceed \$161,000.00 plus interest and court costs, but excluding attorneys fees;

SECTION 4: The City Manager or his designee is authorized to *take* such actions as are necessary to complete the acquisition.

SECTION 5: That the City Attorney's Office shall review **and** approve any and all documents and agreements necessary to purchase the Property and a copy shall be filed with the Office of the City Clerk.

SECTION 6: This Ordinance **shall** take effect immediately upon its passage.

I hereby certify that the foregoing is a full, true and correct copy of an Ordinance passed by the City Council of the City of Oakland on JUN - 2001

CEDA FLOYD

City Clerk and Clerk of the Council

Per Onetha Middleton Deputy

City Council

Re: Acquisitions of Real Property Interests – Airport Roadway Project

December 12, 2000

Page 4

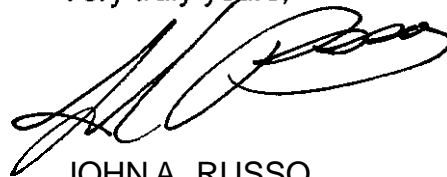
Acquisition of Real Property in City of Oakland v. Ray Ferraris, Jr., et al. In the amount of \$161,000.00 plus interest and court costs, but excluding attorney fees, to Ray Ferraris Jr. and Nina Ferraris, in the amount of \$125,000.00 to Grover Eakman, including all costs, interest and attorneys fees.

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SUMMARY

An ordinance has been prepared authorizing the City Manager to acquire the real property interests condemned in the litigation with Ray Ferraris, Jr. and Nina Ferraris in consideration for payment by the City in the amount of \$161,000.00 plus interest thereon and court costs, but excluding attorney fees to Ray Ferraris, Jr. and Nina Ferraris, in the amount of \$125,000.00 to Grover Eakman, including all costs, interest and attorneys fees contingent upon the City Council approving the companion resolution authorizing settlement of the eminent domain litigation. It is recommended that City Council adopts the ordinance contingent upon approval of the companion resolution authorizing Settlement of the eminent domain litigation.

Very truly yours,



JOHN A. RUSSO
City Attorney

Assigned Attorney
Richard F. Illgen