

OFFICE OF THE CITY ATTORNEY  
OAKLAND

CITY OF OAKLAND



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March 1, 2005

HONORABLE CITY COUNCIL  
Oakland, California

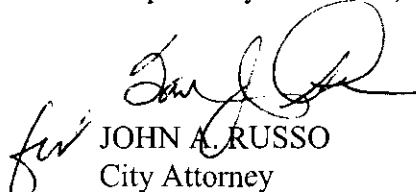
Subject: Resolution Authorizing and Directing the City Attorney to Compromise and Settle the Eminent Domain Litigation of City of Oakland v. Orkin, Inc. dba Thrifty Oil Company ("Thrifty") in the Amount of \$326,820 (\$131,820 Plus the City's \$195,000 Deposit which Thrifty Previously Withdrew) as Compensation for the City's Condemnation of 862-868 – 98<sup>th</sup> Avenue for the City's Widening of 98<sup>th</sup> Avenue (San Mateo County Superior Court Action No. 336725)

President De La Fuente and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney recommends settlement of the above-entitled litigation for the total amount of \$326,820. (The settlement requires that the City pay an additional \$131,820; Thrifty previously withdrew the City's \$195,000 deposit.) The settlement resolves the eminent domain action that the City filed to condemn 862-868 – 98<sup>th</sup> Avenue for the City's widening of 98<sup>th</sup> Avenue and includes the value of the real property, improvements, personal property, goodwill and all attorney's fees, costs and interest.

This item was heard in closed session on February 15, 2005.

Respectfully submitted,

  
JOHN A. RUSSO  
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.



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**Resolution Authorizing and Directing the City Attorney to Compromise and Settle the Eminent Domain Litigation of City of Oakland v. Orkin, Inc. dba Thrifty Oil Company ("Thrifty") in the Amount of \$326,820 (\$131,820 Plus the City's \$195,000 Deposit which Thrifty Previously Withdrew) as Compensation for the City's Condemnation of 862-868 – 98<sup>th</sup> Avenue for the City's Widening of 98<sup>th</sup> Avenue (San Mateo County Superior Court Action No. 336725)**

**WHEREAS**, The City of Oakland condemned the property at 862-868 -- 98<sup>th</sup> Avenue, Oakland, including the improvements thereon (gas station facility) owned by Orkin, Inc. dba Thrifty Oil Company ("Thrifty") for the purpose of widening 98<sup>th</sup> Avenue; and

**WHEREAS:** The City and Thrifty have agreed to settle the amount of compensation due Thrifty for the real property, personal property, improvements, and good will Thrifty claimed as taken by the City in the condemnation, and

**WHEREAS:** The total amount of compensation agreed to is \$326,820, being comprised of \$195,000 for the litigation deposit that was previously withdrawn by Thrifty's attorney, and an additional \$131,820, and be it therefore

**RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the eminent domain litigation of City Of Oakland v. Orkin, Inc. dba Thrifty Oil Company (San Mateo County Superior Court Action No. 336725). for the amount of \$326,820 (\$131,820 plus the deposit of \$195,000 previously withdrawn by Thrifty) as compensation for the condemnation of 862-868 – 98<sup>th</sup> avenue, including the value of the real property, improvements, personal property, goodwill and inclusive of all attorney's fees, costs and interest.

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

In Council, Oakland, California, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS, INTERIM CITY CLERK

CITY CLERK AND CLERK OF THE COUNCIL  
OF THE CITY OF OAKLAND, CALIFORNIA