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CITY OF OAKLAND



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ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney

May 4, 2010

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HONORABLE CITY COUNCIL
Oakland, California

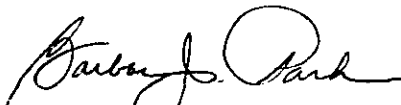
Subject: Settlement Agreement in the Amount of \$36,900, with the Port of Oakland to Cover a Portion of the Environmental Monitoring Costs at Spunkmeyer Field

President Brunner and Members of the Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing compromise and settlement of the Port of Oakland's claim against the City for a share of environmental monitoring costs at Spunkmeyer Field, a Port-owned property that the City leases for recreational use. Under the circumstances, settlement by offset to the Port is recommended in the sum of Thirty-Six Thousand Nine Hundred Dollars (\$36,900) for two main reasons: (1) due to the risk of an adverse verdict if the Port pursues litigation; and (2) other contributing parties may withdraw if the City does not agree to settle the claim at this time.

This action arises from the Port's claim that the City of Oakland, the City of Alameda, and Waste Management of Alameda County formerly used the Spunkmeyer Field site over an extended period of time, and therefore, all must contribute to the Port's costs for environmental investigation of groundwater conditions, as required by the Regional Water Quality Board. This matter was approved in closed session on December 8, 2009. The other parties agreed to the terms of the Settlement Agreement in March 2010.

Very truly yours,

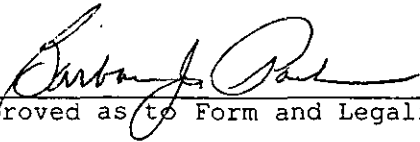

for John A. Russo
City Attorney

Attorney Assigned:
Diane Lewis

648784

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Approved as to Form and Legality

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

DL

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A SETTLEMENT AGREEMENT IN THE AMOUNT OF \$36,900.00 WITH THE PORT OF OAKLAND TO COVER A PORTION OF THE ENVIRONMENTAL MONITORING COSTS AT SPUNKMEYER FIELD

RESOLVED: that the City Attorney is authorized and directed to compromise and settle the claim of the Port of Oakland for a portion of the costs for environmental monitoring at Spunkmeyer Field for the sum of up to Thirty-Six Thousand Nine Hundred Dollars and No Cents (\$36,900.00); and be it

FURTHER RESOLVED: that the City Administrator is authorized to execute the Settlement Agreement with the Port, and 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 Thirty-Six Thousand Nine Hundred Dollars and No Cents (\$36,900.00) shall be payable to the Port of Oakland by offset of a portion of the Port's debt to the City.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES- DE LA FUENTE, KERNIHGAN, NADEL, REID, QUAN, BROOKS, KAPLAN and
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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