

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

02 DEC 23 PM 4:22 CITY ATTORNEY

ORDINANCE NO. 12462 C.M.S.

**AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN REAL PROPERTY INTEREST BY EMINENT DOMAIN LOCATED AT 10 HEGENBERGER ROAD, OAKLAND, COUNTY OF ALAMEDA FOR THE 98<sup>TH</sup> AVENUE COMPONENT OF THE AIRPORT ROADWAY WIDENING AND IMPROVEMENT PROJECT FOR THE FOLLOWING: AN AMOUNT UP TO \$453,932.00, INCLUSIVE OF INTEREST THROUGH DECEMBER 31, 2002; PLUS INTEREST THEREAFTER AT \$35.48 PER DAY UNTIL PAID; THE OWNERS' COST OF LITIGATION; \$25,000 FOR REPLACEMENT OF PARKING LOT LIGHTING, AND LANDSCAPING REMOVED OR DAMAGED; AND \$20,000.00 IN LIEU OF A NON-EXCLUSIVE EASEMENT FOR SURFACE PARKING ON AN ABUTTING, SURPLUS PORTION OF CITY-OWNED PROPERTY.**

**WHEREAS**, in order to facilitate the portion of the Airport Roadway Project along 98<sup>th</sup> Avenue, the City filed a condemnation action to acquire portions of the property located at 10 Hegenberger Road and as set out in Exhibit "A" (the "Property") City of Oakland v. John C. Ying, and Ying Y. Wang, Alameda County Superior Court No. 810071-9; and

**WHEREAS**, John C. Ying, and Ying Y. Wang, (the "Owners") own the Property, and the City named Owners as defendants in the action to certain acquire partial interest in the Owners' Property; and

**WHEREAS**, the Airport Roadway Project, in Resolutions No. 74840, 74852 and 74853, dated March 16, 1999, authorized City staff to initiate acquisition, site clearance and relocation activities; and

**WHEREAS**, the Owners and the City have agreed to settle the action, agreeing to relinquish their interests and waive any and all claims against the City arising out of the condemnation action in consideration of the following: up to \$453,932.00, inclusive of interest through December 31, 2002; plus interest thereafter at \$35.48 per day until paid; the Owners' cost of litigation; \$25,000 for replacement of parking lot lighting, and landscaping removed or damaged; \$20,000.00 in lieu of a non-exclusive easement for surface parking on an abutting, surplus portion of City-owned property to mitigate loss of abutter's rights along 98<sup>th</sup> Avenue; and

**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 Owners', interest in the Property for the amount described herein and the expenditure of project funds for that acquisition; and

**WHEREAS**, the City Council on October 8, 2002, approved a settlement of the condemnation action with the Owners; wherefore,

THE 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 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 the Owners' interests in the Property as described in the attached Exhibit "A" to this ordinance; in consideration of the following: an amount up to \$453,932.00 inclusive of interest through December 31, 2002; plus interest thereafter at \$35.48 per day until paid; the Owners' cost of litigation; \$25,000 for replacement of parking lot lighting, and landscaping removed or damaged; \$20,000.00 in lieu of a non-exclusive easement for surface parking on an abutting, surplus portion of City-owned property to mitigate loss of abutter's rights along 98<sup>th</sup> Avenue; and

SECTION 3. The City Manager, or his designee, is hereby authorized to take such actions as are necessary to complete the acquisition.

SECTION 4. That the City Attorney's Office shall review and approve any and all documents necessary to acquire the Property interests. Copies of the documents shall be filed with the Office of the City Clerk.


SECTION 5. This ordinance shall take effect immediately upon its passage.

**Introduction Date:** ~~JAN 07 2003~~ **JAN 21 2003**

In Council, Oakland, California, \_\_\_\_\_, 2003.

PASSED BY THE FOLLOWING VOTE:

AYES-	BROOKS, BRUNNER, CHANG, DE LA FUENTE, NADEL, QUAN,	
	<del>REID</del> , AND WAN.	- 7
NOES-		- 0
<b>Excused</b>		
ABSENT-	Reid	- 1
ABSTENTION-		- 0

ATTEST:   
 CEDA FLOYD  
 City Clerk and Clerk of the Council  
 of the City of Oakland, California