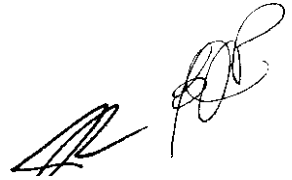


OAKLAND CITY COUNCIL

RESOLUTION No. 76148 C.M.S.



A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF CITY OF OAKLAND VS. ARE HOLDINGS LLC, ET AL., ALAMEDA COUNTY SUPERIOR COURT CASE NO. 810069-4, ARISING OUT OF EMINENT DOMAIN LITIGATION REGARDING CERTAIN REAL PROPERTY LOCATED AT 145 98TH AVENUE, OAKLAND, COUNTY OF ALAMEDA FOR THE AIRPORT ROADWAY PROJECT, WIDENING AND IMPROVEMENT OF 98TH AVENUE COMPONENT, IN THE AMOUNT OF \$700,000.00, INCLUDING INTEREST THROUGH OCTOBER 24, 2000, ATTORNEY'S FEES, AND COURT COSTS.

WHEREAS, the voters of Alameda County approved Measure B in November 1986 for sales tax funding of specific transportation projects in the county; and,

WHEREAS, the Airport Roadway Project ("Project") is one of the projects designed by Measure B with the Port of Oakland (Port) as the Project Sponsor; and,

WHEREAS, on May 21, 1996, the City Council approved, by Resolution No. 72668 C.M.S. the funding agreement (Agreement) with the Alameda County Transportation Authority (ACTA), the City of Alameda (Alameda) and the Port for sharing the Project expenditure and other related actions to successfully complete the Project; and,

WHEREAS, the City Council approved amendments to the Agreement on December 9, 1997 (by Resolution No. 73963 C.M.S.) and on June 23, 1998 (by Resolution No. 74343 C.M.S.); and,

WHEREAS, on February 17, 1998 the City Council approved the Project and the widening of 98th Avenue by Resolution No. 74075 C.M.S.; and,

WHEREAS, in order to facilitate the portion of the Airport Roadway Project along 98th Avenue, the City filed a condemnation action to acquire portions of the property located at 145 98th Avenue, Oakland, County of Alameda, California whose legal description is set out in Exhibit A hereof (the "Property"), Alameda County Superior Court No. 810069-4; and,

WHEREAS, ARE Holdings, LLC (the "Owner") owns the Property and Parking Corporation of America (the "Tenant") leases the Property, and Provident Bank ("Bank") holds a deed of trust to the property, the City has named Owner, Tenant, and Bank as defendants in the action to acquire their interests in the Property; and,

WHEREAS, the City filed an eminent domain action to acquire Owner's, Tenant's, and Bank's interests in the Property and the City, Owner, Tenant, and Bank have agreed to settle the action with the Owner, Tenant and Bank agreeing to relinquish their interests in consideration for payment by the City; 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 Owner and Tenant 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 RESOLVE AS FOLLOWS:

SECTION 1: The City Manager or his designee is authorized to execute such documents as **are** necessary to acquire the Owners, Tenants and Bank's interests in the Property for an amount not to exceed \$700,000.00, inclusive of interest thereon through October 24, 2000 and court costs, including execution of a Settlement and Property Acquisition Agreement (the "Settlement Agreement"), and contingent upon the City Council adopting the companion Ordinance to acquire the Property;

SECTION 2: The City Manager or his designee is authorized to take such actions as are necessary to complete the acquisition, perform the City's obligations under the Settlement Agreement, and carry out the intent of this Resolution.

SECTION 3: The Stipulation for Entry of Judgment and Judgment in Condemnation shall be approved as to form and legality by the City Attorney and a copy shall be filed with the office of the City Clerk.

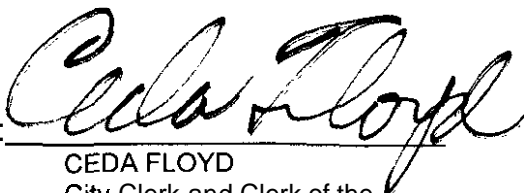
IN COUNCIL, OAKLAND, CALIFORNIA, NOV 14 2000, 2000

Passed By The Following Vote:

AYES- BRUNNER, CHANG, MILEY, NADEL, REID, SPEES, WAN AND
~~PRESIDENT DE LA FUENTE~~ - 7

NOES- None
ABSENT- None
ABSTENTION- None

Excused- De la Fuente - 1

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