

RESOLUTION NO. 24-32

Resolution Of The City Council Of The City Of Emeryville Approving The California Department Of Tax And Fee Administration (CDTFA) Notice Of Determination For The South Bayfront Pedestrian Bridge Project For An Amount Not To Exceed Ninety-Six Thousand Two Hundred Ninety-Seven And Thirty Cents (\$96,297.30) And Authorize The City Manager To Make Payment From Fund 475-16475006

WHEREAS, The City submitted a fee waiver request to the State Department of Toxic Substances Control (DTSC) concerning waste generated at three sites: Horton Landing Park Areas A-H, Horton Landing Park Area I, and the South Bayfront Site. At all three locations, the City asserted that the waste fell under an exemption from the generator fee pursuant to former Health & Safety Code section 25174.7 (in effect until December 31, 2021); and

WHEREAS The Horton Landing Park and South Bayfront Pedestrian Bicycle Bridge Project ("Project") involved the construction of a pedestrian/bicycle bridge spanning the Union Pacific Railroad main line in Emeryville, connecting the east side of the main line, known as Horton Landing Park, with the west side of the main line, known as Bay Street Project Area; and

WHEREAS, Following the DTSC evaluation of the exemption request, the City's application was partially accepted and partially declined. The waste produced at Horton Landing Park Areas A-H and Horton Landing Park Area I met the stipulated criteria since these areas were contaminated due to herbicide use by a previous property owner, aligning with the exemption criteria as the waste was externally caused; and

WHEREAS, Since the Horton Landing Park and South Bayfront Pedestrian Bicycle Bridge work at Bay Street Site A was done pursuant to access agreements that the City secured from the Bay Street Site A property owner for the City's Project and the Successor Agency had no involvement or responsibility for that Project; and

WHEREAS, The City of Emeryville is eligible for the hazardous waste removal exemption at the Horton Landing Park project areas but does not qualify for the exemption at the Bay Street project site; and

WHEREAS, There are remaining funds from the South Bayfront Pedestrian Bridge project that can cover the fees which total \$96,297.30 and the City intends to request a waiver of the penalties and interest due to DTSC's delayed response since interest will continue to accumulate during the waiver request process; and

WHEREAS, Settling the outstanding amount promptly is advised, to avoid accruing additional interest;

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Emeryville approves the California Department of Tax and Fee Administration (CDTFA) Notice of Determination for the South Bayfront Pedestrian Bridge Project for an amount not to exceed Ninety Six Thousand Two Hundred Ninety Seven and Thirty Cents (\$96,297.30)

and authorizes the City Manager to make payment from Fund 475-16475006 and, be it, further

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, March 19, 2024, by the following vote:

AYES:	<u>5</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters, Kaur and Priforce
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

MAYOR

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY