

RESOLUTION NO. SA__-19

Resolution Of The City Of Emeryville As Successor Agency To The Emeryville Redevelopment Agency Approving And Authorizing The City Manager To Enter Into An Environmental Oversight Agreement With The California Environmental Protection Agency, Department Of Toxic Substances Control, In An Amount Not To Exceed \$150,000.00 For The Term Of July 1, 2019 Through June 30, 2021, For Oversight Of Groundwater Remediation And Monitoring At South Bayfront Site B Pursuant To California Health And Safety Code Section 34177.3(A)

WHEREAS, the California state legislature enacted Assembly Bill x1 26 to dissolve redevelopment agencies formed under the Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.) (the "Dissolution Act"); and

WHEREAS, on January 17, 2012, pursuant to California Health and Safety Code Section 34173, the City Council of the City of the City of Emeryville elected to have the City of Emeryville ("City") serve as successor agency ("Successor Agency") for the dissolved Emeryville Redevelopment Agency ("Redevelopment Agency") effective February 1, 2012; and

WHEREAS, on February 1, 2012, the former Redevelopment Agency was dissolved pursuant to California Health and Safety Code Section 34172; and

WHEREAS, the Successor Agency is responsible for implementing the Dissolution Act, including winding down the affairs of the former Redevelopment Agency under the direction of an Oversight Board; and

WHEREAS, on July 23, 2010, in the matter of Emeryville Redevelopment Agency v. Howard F. Robinson and Jeanne C. Robinson, PG&E, Wilson Associates, Chevron Corporation, Union Oil, Sherwin-Williams Company, Mary Lou Adam as Trustee, Christopher D. Adam, Hilary A. Jackson; Bank of America, trustee of Koeckritz Trust, Alameda County Superior Court, Consolidated Case Nos. RG-06-267600, RG-06-267594, RG-07-332012, the Alameda County Superior Court approved an Order On Joint Motion For Good Faith Determination Of Settlement and Settlement Allocations ("Settlement Order") approving settlement agreements with several defendants and approving the allocation of \$22.4 million in settlement proceeds paid to the Redevelopment Agency, conditioned on the Redevelopment Agency completing the soil and groundwater remediation at South Bayfront Site B in accordance with the FS/RAP and Final RDIP; and

WHEREAS, as provided by California Health and Safety Code Sections 34171(d)(1)(D) and 34171(d)(1)(E) of the Dissolution Act, the settlement agreements approved by the Settlement Order are an enforceable obligation of the Successor Agency; and

WHEREAS, completion of the remediation of groundwater at South Bayfront Site B is an obligation of the Successor Agency pursuant to the terms of the settlement agreements approved by the Settlement Order and necessarily requires the regulatory oversight of the California Environmental Protection Agency, Department of Toxic Substances Control ("DTSC"); and

WHEREAS, the environmental oversight agreement entered into between the former Redevelopment Agency and DTSC on June 27, 2011, inadvertently expired and the Successor Agency and DTSC desire to enter into a new environmental oversight agreement for the initial term of July 1, 2019 through June 30, 2021, in order to provide the necessary regulatory oversight services required to complete the remediation of groundwater at South Bayfront Site B; and

WHEREAS, California Health and Safety Code Section 34177.3(a) provides that the Successor Agency “shall lack the authority to, and shall not, create new enforceable obligations or begin redevelopment work, **except in compliance with an enforceable obligation**, as defined in subdivision (d) of Section 34171, that existed prior to June 28, 2011”; and

WHEREAS, DTSC’s services are necessary in order for the Successor Agency to complete the remediation of groundwater at South Bayfront Site B, which is an enforceable obligation of the Successor Agency pursuant to the terms of the settlement agreements approved by the Settlement Order of the Alameda County Superior Court on July 23, 2010, which date is prior to June 28, 2011, and accordingly the Successor Agency has the authority to create a new enforceable obligation with DTSC; and

WHEREAS, the Successor Agency has reviewed and duly considered the staff report dated December 18, 2018, the documentation provided in support of the staff report, the testimony provided during the public meeting, and the Environmental Oversight Agreement between the Successor Agency and DTSC, in an amount not to exceed \$150,000.00 for the initial term of July 1, 2019 through June 30, 2021, in the form attached hereto as Exhibit A, to provide regulatory oversight of groundwater remediation and monitoring at South Bayfront Site B; now, therefore, be it

RESOLVED, pursuant to authority provided by Section 34177.3(a), the Successor Agency hereby approves and authorizes the City Manager to enter into an Environmental Oversight Agreement with the California Environmental Protection Agency, Department Of Toxic Substances Control, in an amount not to exceed \$150,000.00 for the term of July 1, 2019 through June 30, 2021, in the form attached hereto as Exhibit A, subject to such non-substantive changes as may be agreed to by the City Manager and City Attorney.

ADOPTED, by the City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency at a regular meeting held Tuesday, January 15, 2019, by the following vote.

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY