

## **RESOLUTION NO. 21-36**

**Resolution Of The City Council Of The City Of Emeryville Approving And Consenting To Amended Agreements Of Employment Between MESA And Michael Guina As City Attorney/General Counsel For The Period Of July 1, 2018, Through July 30, 2020; And From August 1, 2020, Through July 31, 2022;**

**WHEREAS**, on January 20, 1998 the City of Emeryville and Emeryville Redevelopment Agency adopted a Joint Powers Agreement to create the Management of Emeryville Services Authority ("MESA"); and

**WHEREAS**, on June 2, 1998, the City of Emeryville and MESA entered into an Operating Agreement whereby certain non-public safety classifications of employees of the City of Emeryville, including that of City Attorney, were transferred to MESA and thereafter have been employees of MESA; and

**WHEREAS**, the MESA employees within the classifications delineated in Section 2 of the Operating Agreement, including that of City Attorney, provide certain management, administrative, special or general personnel services to the City; and

**WHEREAS**, the position of City Attorney of the City of Emeryville also fulfills duties as City Attorney for the City of Emeryville Successor Agency, General Counsel of the Emeryville Public Financing Authority, the Emeryville Community Development Commission, and the MESA; and

**WHEREAS**, section 4.F of the Operating Agreement between the MESA and the City of Emeryville provides that the City shall "provide all hiring, disciplinary and general personnel administration for MESA and its employees"; and

**WHEREAS**, in 2016, the MESA and City Council adopted Resolution Nos. MA25-16 and 16-155, respectively, approving an Agreement of Employment with Michael Guina as City Attorney for the period July 1, 2016 – June 30, 2018; in 2018, the MESA and City Council adopted Resolution Nos. MA03-18 and 18-79, respectively, approving an Agreement of Employment with Michael Guina as the City Attorney for the period July 1, 2018 through July 30, 2020; in 2020, the MESA and City Council adopted Resolution Nos. MA01-20 and 20-69, respectively, approving an Agreement of Employment with Mr. Guina as City Attorney for the period August 1, 2020 through July 31, 2022; and

**WHEREAS**, each Agreement of Employment provided a base salary which would be increased during the term of the Agreement by cost of living and performance adjustments; however, the 2018-2020 and 2020-2022 Agreements did not accurately reflect the base salary as adjusted by prior cost of living and performance adjustments; and while payroll was processed for the correct amounts, there is a discrepancy between the payroll records of amounts actually paid, and the amounts specified in the Agreements;

**WHEREAS**, the MESA and City Council wish to amend the 2018-2020 and 2020-2022 Agreements to accurately reflect the salary amounts due, in order to provide consistency with the payroll records of amounts actually paid; now, therefore, be it

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**RESOLVED**, that the City Council of the City of Emeryville hereby approves and consents to Amended Agreements of Employment between the Management of Emeryville Services Authority and Michael Guina as City Attorney / General Counsel for the period of July 1, 2018, through July 30, 2020, in the form attached hereto as Exhibit A; and for period of August 1, 2020, through July 31, 2022, in the form attached hereto as Exhibit B;.

**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held on Tuesday, April 20, 2021, by the following vote:

AYES:	<u>5</u>	Mayor Martinez, Vice Mayor Donahue, and Council Members Bauters, Medina, and Patz
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:

*Dianne Martinez*

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MAYOR

ATTEST:

DocuSigned by:

*Shari Hartz*

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CITY CLERK

APPROVED AS TO FORM:

*Michael Guina*

CITY ATTORNEY

## **AMENDED AGREEMENT OF EMPLOYMENT BETWEEN THE MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY AND MICHAEL A. GUINA**

**THIS AMENDED AGREEMENT OF EMPLOYMENT (“Amended Agreement”)** is entered into effective the \_\_\_\_ day of April 2021 (the “**Effective Date**”), by and between the **MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY**, hereinafter referred to as the “**Authority**”, and **MICHAEL GUINA**, hereinafter referred to as the “**City Attorney**,” and collectively the “**Parties**.”

### **Recitals**

**Whereas**, the Authority and the City of Emeryville retained the services of City Attorney pursuant to that certain Agreement of Employment (“Agreement”) effective July 1, 2018, for a two-year term ending July 30, 2020 (MESA Resolution No. MA03-18; City Council Resolution No. 18-79); and

**Whereas**, that Agreement specified a base salary which did not accurately reflect prior cost of living and performance adjustments accrued from the prior agreement; and

**Whereas**, the Authority and the City Attorney wish to amend the Agreement to accurately reflect the salary amounts due and to provide consistency with payroll records of amounts actually paid;

**Now therefore**, the Parties agree as follows:

#### **A. Amendment to Section 6 of the Agreement**

Section 6 of the Agreement is amended to read as follows.

#### **Section 6. Salary**

In the first year of this Agreement (FY 2018-2019), the Authority agrees to pay the City Attorney for his services rendered a base salary of **Seventeen Thousand, Five Hundred Six Dollars (\$17,506.00)** per month, payable in installments at the same time as other employees of the Authority are paid. In addition, the Authority shall pay the City Attorney a one-time lump sum of **Ten Thousand Dollars (\$10,000)** on the first pay period following August 1, 2018.

Beginning the second year of this Agreement (FY 2019-2020), the Authority agrees to pay the City Attorney for his services rendered a base salary of **Seventeen Thousand, Six Hundred Eighty Thousand Dollars (\$17,680.00)** per month, payable in

installments at the same time as other employees of the Authority are paid.

In recognition of accomplishment of objectives, the Authority may grant the City Attorney an increase to said base salary. In addition to any other benefits that the Authority and City Attorney may subsequently agree to, the Authority agrees to provide increases to said base salary of the City Attorney in the same amount as negotiated in good faith between the Authority, acting through its City Manager, and the Confidential Administrative, Managerial and Professional (CAMP) employees of the Authority.

**B. No Other Amendments**

All other provisions of the Agreement not otherwise modified by this Amendment shall remain in full force and effect.

**Management of Emeryville Services  
Authority**

Date: 4/21/2021, 2021

DocuSigned by:



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\_\_\_\_\_  
Dianne Martinez, Chair of Board of Directors

**City Attorney**

Date: \_\_\_\_\_, 2021

\_\_\_\_\_  
Michael Guina

## **AMENDED AGREEMENT OF EMPLOYMENT BETWEEN THE MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY AND MICHAEL A. GUINA**

**THIS AMENDED AGREEMENT OF EMPLOYMENT (“Amended Agreement”)** is entered into effective the \_\_\_\_ day of April 2021 (the “**Effective Date**”), by and between the **MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY**, hereinafter referred to as the “**Authority**”, and **MICHAEL GUINA**, hereinafter referred to as the “**City Attorney**,” and collectively the “**Parties**.”

### **Recitals**

**Whereas**, the Authority and the City of Emeryville retained the services of City Attorney pursuant to that certain Agreement of Employment (“Agreement”) effective August 1, 2020, for a two-year term ending July 31, 2022 (MESA Resolution No. MA01-20; City Council Resolution No. 20-69); and

**Whereas**, that Agreement specified a base salary which did not accurately reflect prior cost of living and performance adjustments accrued from the prior agreement; and

**Whereas**, the Authority and the City Attorney wish to amend the Agreement to accurately reflect the salary amounts due and to provide consistency with payroll records of amounts actually paid;

**Now therefore**, the Parties agree as follows:

### **A. Amendment to Section 6 of the Agreement**

Section 6 of the Agreement is amended to read as follows.

#### **Section 6. Salary**

During the Term of this Agreement, the Authority agrees to pay the City Attorney for his services rendered a base salary of **Eighteen Thousand, Eight Hundred Three Dollars (\$18,803)** per month, payable in installments at the same time as other employees of the Authority are paid.

In recognition of accomplishment of objectives, the Authority may grant the City Attorney an increase to said base salary. In addition to any other benefits that the Authority and City Attorney may subsequently agree to, the Authority agrees to provide increases to said base salary of the City Attorney in the same amount as negotiated in good faith between the Authority, acting through its

City Manager, and the Confidential Administrative, Managerial and Professional (CAMP) employees of the Authority.

**B. No Other Amendments**

All other provisions of the Agreement not otherwise modified by this Amendment shall remain in full force and effect.

Date: 4/21/2021

**Management of Emeryville Services  
Authority**

DocuSigned by:



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Dianne Martinez, Chair of Board of Directors

**City Attorney**

Date:

\_\_\_\_\_  
Michael Guina