

## **RESOLUTION NO. 21-113**

### **Resolution Of The City Council Of The City Of Emeryville Approving And Consenting To An Extension Of The Term Of The Agreement Of Interim Appointment Between The Management Of Emeryville Services Authority (MESA) And Andrea Visveshwara As Interim City Attorney And Authorizing The Chair Of The Board Of Directors To Execute The First Amendment To The Agreement**

**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 General Counsel for the City of Emeryville Successor Agency, the Emeryville Public Financing Authority, the Emeryville Community Development Commission, and the Management of Emeryville Services Authority (MESA); and

**WHEREAS**, Section 4.F of the Operating Agreement between 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**, the City of Emeryville City Council and the MESA Board of Directors, through their designated representatives, and Andrea Visveshwara negotiated the terms of an Agreement of Interim Appointment for a term expiring October 31, 2021, and now wish to extend that term to January 31, 2022; now, therefore, be it

**RESOLVED**, that the City Council of the City of Emeryville hereby approves and consents to an extension of the term of the Agreement of Interim Appointment between the Management of Emeryville Services Authority and Andrea Visveshwara as Interim City Attorney through January 31, 2022, in the form attached hereto as Exhibit A, and authorizes the Chair of the Board of Directors to execute the First Amendment to the Agreement.

Resolution No. 21-113

Interim City Attorney; Extension of Agreement of Interim Appointment

City Council Meeting | October 19, 2021

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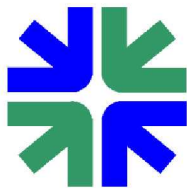
**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held Tuesday, October 19, 2021, by the following vote:

AYES:	<u>4</u>	Mayor Martinez, Vice Mayor Donahue, and Council Members Bauters and Medina
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:  
  
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MAYOR

ATTEST:

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CITY CLERK



# City of Emeryville

CALIFORNIA

## Management of Emeryville Services Authority AGREEMENT OF INTERIM APPOINTMENT

### FIRST AMENDMENT

**THIS FIRST AMENDMENT TO THE AGREEMENT OF INTERIM APPOINTMENT** ("Amendment") is effective as of \_\_\_\_\_ by and between **THE MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY**, ("MESA") and **ANDREA VISVESHWARA** ("Employee"), individually referred to as a "Party" and collectively as the "Parties".

### WITNESSETH THAT

**WHEREAS**, the MESA and Employee entered into an Agreement of Interim Appointment effective April 24, 2021 ("Contract") for the purpose of retaining the services of Employee to provide the services of city attorney; and

**WHEREAS**, the MESA and Employee desire to amend the Contract; and

**WHEREAS**, the public interest will be served by this Amendment.

**NOW, THEREFORE**, the Parties hereto do mutually agree as follows:

#### 1. AMENDMENT

The Parties desire to extend the termination date. Section 2 of the Contract is hereby amended to extend the termination date to **JANUARY 31, 2022**.

#### 2. CONTINUING EFFECT OF CONTRACT

Except as amended by this Amendment, all other provisions of the Contract remain in full force and effect and shall govern the actions of the Parties under this Amendment. From and after the date of this Amendment, whenever the term "Contract" appears in the Contract, it shall mean the Contract as amended by this Amendment.

#### 3. ADEQUATE CONSIDERATION

The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

#### FOR CITY USE ONLY

Contract No.		Resolution No.	
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**4. SEVERABILITY**

If any portion of this Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

**5. WAIVER**

The MESA's failure to enforce any provision of this Amendment or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

*SIGNATURES ON FOLLOWING PAGE*

**6. SIGNATURE PAGE TO AGREEMENT OF INTERIM APPOINTMENT  
FIRST AMENDMENT**

**IN WITNESS WHEREOF** the Management of Emeryville Services Authority and the Employee have executed this Contract, which shall become effective as of the date first written above.

Dated:

**MANAGEMENT OF EMERYVILLE SERVICES  
AUTHORITY**

\_\_\_\_\_

\_\_\_\_\_  
Dianne Martinez, Chair

Dated:

**INTERIM CITY ATTORNEY**

\_\_\_\_\_

\_\_\_\_\_  
Andrea Visveshwara

\_\_\_\_\_  
(Signature)