

RESOLUTION NO. 23-_____

Resolution Of The City Council Of The City Of Emeryville Directing The Recordation Of Addendums To Notices Of Reassessment For Certain Assessment Districts, And Directing The Disposition Of Surplus Funds Related To The City's Bay Street-Shellmound Street Extension Assessment District

WHEREAS, on July 21, 1999, the City of Emeryville (the "City") issued (a) its Limited Obligation Refunding Bonds, City of Emeryville, Bay Street-Shellmound Street Extension Assessment District (the "Bay Street-Shellmound Bonds"), (b) its Limited Obligation Refunding Bonds, City of Emeryville, Assessment District No. 1993-1 (East Baybridge Center) (the "East Baybridge Bonds"), and (c) its Limited Obligation Refunding Bonds, City of Emeryville, West Emeryville Assessment District (together with the Bay Street-Shellmound Bonds and the East Baybridge Bonds, the "Refunding Bonds"), the proceeds of which Refunding Bonds were used to refund three series of assessment bonds previously issued by the City; and

WHEREAS, the Refunding Bonds were acquired by the Emeryville Public Financing Authority (the "Authority") with proceeds of the Authority's 1999 Revenue Bonds (Assessment District Refinancings) (the "Authority Bonds") that were issued by the Authority pursuant to an Indenture of Trust, dated as of July 1, 1999 (the "Indenture"), between the Authority and Harris Trust, as trustee; and

WHEREAS, the Refunding Bonds and the Authority Bonds have matured and have been paid in full and the assessments levied to pay the Refunding Bonds have been repaid in full; and

WHEREAS, Section 3114.3 of the Streets and Highways Code provides that the City Treasurer record an addendum ("Addendum") to the notice of reassessment recorded against the parcels in the assessment districts for which the Refunding Bonds were issued (the "Assessment Districts"), which states that the recorded reassessments have been paid in full and that the associated lien against those parcels have been discharged in whole; and

WHEREAS, the Bay Street-Shellmound Bonds were issued pursuant to a Fiscal Agent Agreement, dated as of July 1, 1999 (the "Fiscal Agent Agreement"), between the City and Harris Trust Company of California ("Harris Trust"), as fiscal agent; and

WHEREAS, the City has on hand funds attributable to various funds established under the Fiscal Agent Agreement and otherwise related to the Bay Street-Shellmound Bonds, and the City Council now desires to direct the disposition of those funds; now, therefore be it

RESOLVED, that the City Council of the City of Emeryville hereby directs the Finance Director, in the capacity as City Treasurer, to record in the Alameda County Recorder's Office an Addendum to the Notice of Reassessment for each of the Assessment Districts substantially in the form attached to this Resolution as Exhibit A; and

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RESOLVED, that the City Council hereby finds and determines that all of the funds held by the City attributable to the Bay Street-Shellmound Bonds, including amounts attributable to a Redemption Fund and a Contingent Assessment Fund described in the Fiscal Agent Agreement and in a Bay Street-Shellmound AD Account of a Reserve Fund described in the Indenture (collectively, the "Surplus Funds"), should have been transferred to and maintained, as applicable, in the Redemption Fund at the time the Bay Street-Shellmound Bonds were fully repaid; and

RESOLVED, that the City Council of the City hereby directs that the Finance Director establish a capital improvement fund and, following payment from the Surplus Fund of legal and other costs related to the analysis and administration of the Surplus Funds, transfer all remaining Surplus Funds to the capital improvement fund, and that amounts in the capital improvement fund be used for public improvements, or for the maintenance of public improvements, of benefit to the property in the area of the assessment district for which the Bay Street-Shellmound Bonds were issued; and

RESOLVED, that the City Manager, the Finance Director and all other officers of the City are hereby authorized and directed to execute such documents and take such actions as may be necessary to implement the provisions of this Resolution.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, February 7, 2023, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

DocuSigned by:
John Kennedy
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CITY ATTORNEY

ATTACHMENTS

- Exhibit A – Addendums to the Notice of Reassessment