

OVERSIGHT BOARD RESOLUTION NUMBER OB-2015-6

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING THE SETTLEMENT AGREEMENT AND RELEASE BY AND BETWEEN EMC/UNION OIL, BALLPARK VILLAGE, LLC, JMI REALTY LLC AND THE SUCCESSOR AGENCY.

WHEREAS, the former Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, in accordance with Assembly Bill x1 26 (AB 26) enacted on June 28, 2011, the Former RDA dissolved as of February 1, 2012, at which time the City, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), assumed the Former RDA's assets and obligations; and

WHEREAS, the Successor Agency is required to administer the winding down of the Former RDA's operations and to ensure compliance with the Former RDA's obligations in accordance with AB 26, as subsequently amended (collectively, the Dissolution Laws); and

WHEREAS, the Dissolution Laws specify that the Oversight Board and the California Department of Finance (DOF) must review and approve certain actions and decisions of the Successor Agency; and

WHEREAS, in 2005, the Former RDA entered into an Owner Participation Agreement (OPA) with Ballpark Village, LLC (Developer), in which Developer agreed to perform remediation of hazardous substances as defined in Health and Safety Code (HSC) section 33459(c) on a large parcel located generally east of Petco Park, commonly referred to as Parcel C, located in downtown San Diego (Property); and

WHEREAS, as of February 1, 2012, the Successor Agency has assumed the Former RDA's rights and obligations under the OPA by operation of AB 26; and

WHEREAS, the contamination present in the soil and groundwater at and under the Property may be caused by pipelines formerly owned and operated by Union Oil Company of California (Union Oil); and

WHEREAS, Developer plans to develop the Property as a mixed-use project that will include an underground parking structure, in which contamination may be encountered; and

WHEREAS, the Successor Agency, using its powers under the Polanco Redevelopment Act, issued a 60-day notice to Union Oil requesting a remedial action plan to remedy or remove the contamination caused by its pipelines; and

WHEREAS, the Settlement Agreement and Release between the Successor Agency, Developer, JMI Realty LLC (JMI) and Chevron Environmental Management Company (EMC), for itself and attorney-in-fact for Union Oil (Agreement) is necessary to resolve claims regarding the responsibility and liability for the contamination on the Property; and

WHEREAS, the Agreement settles Developer's claims against Union Oil in the form of monetary compensation to Developer, and in exchange for such compensation, Developer agrees to release Union Oil from future liability; and

WHEREAS, the Successor Agency, as a party to the Agreement, will not incur any obligations or liability related to contamination affecting the Property, but will preserve its rights to assert authority under the Polanco Redevelopment Act, if necessary; NOW, THEREFORE,

BE IT RESOLVED by the Oversight Board that the Agreement, a copy of which is included as Exhibit 2 to the Staff Report dated April __, 2015 accompanying this Resolution, is approved.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on April 20, 2015.

Chair, Oversight Board