

RESOLUTION NO. 17-01-CFD 2012-1

A RESOLUTION OF COMMUNITY FACILITIES DISTRICT 2012-1 OF THE CITY OF CARSON, CALIFORNIA, AUTHORIZING A PLEDGE OF COMMUNITY FACILITIES DISTRICT 2012-1 REVENUES TOWARD THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL'S FINANCIAL ASSURANCE REQUIREMENTS FOR THE 157-ACRE FORMER CAL-COMPACT LANDFILL, IN THE AMOUNT OF \$2,323,750 PER YEAR AT BUILD OUT OVER THE LIFE OF THE DISTRICT PURSUANT TO TITLE 27, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, SUBDIVISION 1, CHAPTER 6

WHEREAS, the City Council of the City of Carson did, pursuant to the provision of the "Mello-Roos Community Facilities Act of 1982," being Chapter 2.5, Part 1, Division 2 of Title 5 (commencing with Section 53311) of the Government Code of the State of California (hereinafter referred to as the "Act"), and specifically Section 53321.5 thereof, expressly order the filing of a written "Report" with the legislative body of the proposed community facilities district. This community facilities district being Community Facilities District No. 2012-1 of the City of Carson (The Boulevards at South Bay – Remedial Systems OM&M) shall hereinafter be referred to as: "CFD No. 2012-1"; and

WHEREAS, pursuant to Section 53313(f) of the Act, a community facilities district may finance services with respect to removal or remedial action (as defined in Sections 25322 and 25323 of the California Health & Safety Code) for the cleanup of any hazardous substance (as defined in Section 25281 of the California Health & Safety Code) released or threatened to be released into the environment. Such services include the maintenance and monitoring of such work. Such services are additional services not available in the territory prior to the creation of CFD No. 2012-1. Pursuant to Section 53313.5(k) of the Act, such services may take place on private property; and

WHEREAS, the City of Carson determined to establish a joint powers authority under the provisions of the California Joint Powers Act (Govt. Code Sections 6500 et. seq., as it shall be amended), and on January 20, 2015, the governing boards of the Carson Housing Authority and the Community Facilities Districts each approved an agreement for the formation of the Carson Reclamation Authority ("Authority") for the purpose of overseeing and facilitating the remediation of contaminated properties in the City, and for the maintenance and potential development of same, and said Authority was formed on February 17, 2015, which agreement was amended on or about March 17, 2015, and officers were elected on April 20, 2015; and

WHEREAS, On November 14, 2016, Tetra Tech and the Carson Reclamation Authority ("CRA") executed a Termination and Release Agreement ("Termination Agreement"), which Termination Agreement would terminate two guaranteed fixed-price remediation agreements entered into by the previous owner, Carson Marketplace: (i) the Fixed Price Design and Construction Environmental Assurance Agreement, dated December 31, 2007, as amended (the "D&C EAA"); and (ii) the Fixed Price Operation and Maintenance Environmental Assurance Agreement dated December 31, 2007, as amended (the "O&M EAA") (together, the "Remediation Agreements"); AND

WHEREAS, on April 13, 2009, CM, as Grantor, Tetra Tech, as Beneficiary, and Wells Fargo Bank, N.A., as Trustee, executed that certain Carson Marketplace Design and Construction EAA Trust Agreement, as amended, and deposited approximately \$79,347,714 in a trust account (the "Remediation Trust") to support and fund certain remediation activities associated with the Site under the D&C EAA Agreement and the Regulatory Documents; and

WHEREAS, in order to further the purposes of the Termination Agreement and to utilize the funds in the Remediation Trust for their intended purpose, CRA and Tetra Tech, with the consent of DTSC, have elected to terminate the Remediation Trust and to have CRA establish an enterprise fund ("Enterprise Fund") with the proceeds of the Remediation Trust in substantial conformance with Sections 22228 and 22241 of Public Resources Code, Sections 43500-43610.1 and sections of Title 27, California Code of Regulations (the "Regulations"); and

NOW THEREFORE, BE IT RESOLVED, that the District Board of Directors hereby authorizes the pledge of up to \$2,323,750 per year in CFD 2012-1 revenues pursuant to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6 for the operation and maintenance of the remedial systems at the above-mentioned property.

This resolution shall remain in full force and effect until rescinded by the Authority Board of Directors by resolution and a copy of the resolution rescinding this resolution is filed with the State Department of Toxic Substances Control.

PASSED, APPROVED and ADOPTED by the Board of Community Facilities District 2012-1, City of Carson, County of Los Angeles in the State of California on this 24th day of January, 2017.

Albert Robles, Chairman

ATTEST:

Donesia L. Gause, CMC
District Clerk

APPROVED AS TO FORM:

District Counsel