

RESOLUTION 2022-124

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING THE CITY MANAGER TO EXECUTE A LEGAL SERVICES AGREEMENT WITH SHER EDLING LLP TO REPRESENT THE CITY OF SAN PABLO ON A CONTINGENCY FEE BASIS IN LITIGATION OVER PCB CONTAMINATION

WHEREAS, Polychlorinated Biphenyls (PCBs) are a group of manufactured chemicals that have been determined to have carcinogenic effects on fish, wildlife and humans;

WHEREAS, under the National Pollutant Discharge Elimination System (NPDES) Permit issued by the Regional Water Quality Control Board (Water Board), the City of San Pablo is required to remove PCBs from the environment by building infrastructure and implementing policies that remove PCBs from stormwater before it enters the City's stormdrain network and subsequently the creeks and the Bay.

WHEREAS, on July 5, 2022, following the lead of Contra Costa County and a growing number of Bay Area counties and cities, the City Council decided to opt out of the settlement in the nationwide class action brought against Monsanto Company, the manufacturer and seller of PCBs, and directed the City Attorney to instead initiate direct litigation on behalf of San Pablo;

WHEREAS, the law firm of Sher Edling LLP specializes in representing public agencies in environmental cases, holding polluters accountable for the damage they cause, and currently represents numerous cities and several counties in the Bay Area, including Contra Costa County, in pending or contemplated PCB litigation; and

WHEREAS, the City of San Pablo wishes to contract with Sher Edling LLP on a contingency basis with the hope and expectation that future recovery will help offset the tens of millions of dollars the City will be required to spend to comply with NPDES Permit requirements related to PCB pollutant removal.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Pablo hereby authorizes the City Manager to execute a legal services agreement with Sher Edling LLP, in a form to be approved by the City Attorney that is substantially similar to the attached agreement, to represent the City of San Pablo on a contingency fee basis in litigation over PCB contamination; and

BE IT FURTHER RESOLVED that the foregoing recitations are true and correct and are included herein by reference as findings.

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ADOPTED this 10th day of August, 2022, by the following votes:

AYES: COUNCILMEMBERS: Pabon-Alvarado, Cruz, Ponce,
Pineda and Xavier

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ATTEST:

APPROVED:

/s/ Dorothy Gantt
Dorothy Gantt, City Clerk

/s/ Rita Xavier
Rita Xavier, Mayor