

## RESOLUTION NO. 46-14

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND IN SUPPORT OF THE EFFICIENT REVIEW OF THE ENVIRONMENTAL IMPACT REPORT AND CONDITIONAL USE PERMIT FOR CHEVRON MODERNIZATION PROJECT

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**WHEREAS**, the Superior Court of Contra Costa County issued a writ of mandate in March 2011 directing the City of Richmond (City) to set aside approvals for the Chevron Hydrogen and Energy Renewal Project (2008 Project) and revise the Environmental Impact Report (EIR) for the 2008 Project consistent with court direction before taking further action; and

**WHEREAS**, the City Council of the City of Richmond (City Council) adopted with unanimous approval on March 1, 2011, Resolution No. 15-11, which encouraged Chevron Products Company (Chevron) to proceed with an application for the project and directed the City Manager to make processing a new or amended permit a high priority, and to take other appropriate measures as required to process a permit application as promptly as possible consistent with governing laws and regulations; and

**WHEREAS**, Chevron submitted a Conditional Use Permit (CUP) to the City on May 23, 2011, and has requested related Project entitlements for the "Modernization Project" (Project), a refinery project that is smaller, but similar, to the 2008 Project; and

**WHEREAS**, in 2011 the City engaged a team of technical and legal experts to assist the City in preparing the Environmental Impact Report (EIR) for the Project; and

**WHEREAS**, in 2012, 2013 and 2014, the City conducted extensive public and agency outreach on the Project, including: (a) five educational sessions prior to the release of the Draft Environmental Impact Report (Draft EIR) to provide opportunities for the public to learn more about key technical topics about the Project and EIR, such as refinery operations, greenhouse gas emissions, and health risk assessments; (b) two public workshops that included an oral presentation summarizing the Draft EIR and an all-day session providing interested parties with full access to the experts retained by the City to prepare the EIR; (c) a study session that likewise included an oral presentation summarizing the Draft EIR at a Commission meeting, with responses to comments and questions made by Commissioners provided by the experts retained to draft the EIR; (d) numerous additional meetings with representatives from Communities for a Better Environment in order to explain and answer technical questions regarding the Draft EIR; (e) more than twenty meetings with expert agencies to enlist their assistance in preparing the Draft EIR and to discuss the content of the Draft EIR; and (f) a public comment hearing following the release of the Draft EIR to receive comments; and

**WHEREAS**, in February of 2014, the City Council directed the City Manager to timely complete the EIR and CUP process, inclusive of City Council consideration of any potential appeal of the CUP, by July 31, 2014; and

**WHEREAS**, Richmond Municipal Code, section 3.20.070, authorizes the Planning Commission of the City of Richmond (Commission) to call special meetings and hearings pursuant to rules developed by the Commission, and at least two (2) such special hearings were held by the Commission in the processing of entitlements for the 2008 Project; and

**WHEREAS**, the intent of this Resolution is to facilitate timely public discussion and efficient decision-making, and not to modify ordinary and uniform public access procedures, including the hearing procedure for accepting public comments and hearing public testimony established by the Planning Commission consistent with Government Code section 65804; and

**WHEREAS**, the City has the authority to exercise police powers pursuant to Article XI, Section 7 of the California Constitution; and

**WHEREAS**, the Charter of the City of Richmond (Charter) vests enumerated powers in the City and entrusts the exercise of these powers to the City Council; and

**WHEREAS**, the Charter provides, in pertinent part, that: the City may "exercise all other needful powers for the efficient administration of the municipal government, whether such powers are herein expressly enumerated or not[;]" Charter, Article II, Sec. 1(23); the enumerated powers are "to be liberally construed for the purpose of securing the well being of the municipality and its inhabitants[;]" Charter, Article II, Sec. 1(24); and that the City Council shall, "except as herein otherwise provided, have the power to fix and establish the method and manner in which [the powers given to the City] may be exercised[;]" Charter, Article III, Sec. 1; and

**WHEREAS**, the Commission was established by the City Council by way of Municipal Code, section 3.20.010, and the Charter does not make reference to the Commission; and

**WHEREAS**, Government Code section 65905, which specifies the procedures for considering CUP applications, has not been adopted by the Richmond Municipal Code, and unless such provision of the Government Code is expressly adopted such procedure does not apply to charter cities pursuant to Government Code section 65803; and

**WHEREAS**, the City has and intends to continue to exercise fully its charter city authority; and

**WHEREAS**, the City intends to release the Final EIR on or about June 9, 2014, and hold additional community workshops in May and June regarding potential conditions of approval prior to taking final action on the CUP application; and

**WHEREAS**, on April 17, 2014, the Planning Commission directed staff not to agendize hearings on FEIR certification and Modernization Project entitlements until at least 30 days after the release of the FEIR, absent contrary direction from the City Council; and

**WHEREAS**, given the foregoing factors, the City Council is exercising its authority under Government Code section 65102 and its inherent charter city authority to urge the Commission conduct hearings on the Final EIR, the Modernization Project CUP and related Project entitlements on or about June 23 and 25, with a vote to be taken no later than June 25, 2014; and

**WHEREAS**, departure from this schedule will result in harm and significant inconvenience to the City and its residents, including the potential postponement of the benefits associated with the Project related to the safety, health and welfare, and in unnecessary distraction from other City matters.

**NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Richmond** that, so long as the Final EIR is issued on or about June 9, the Planning Commission is urged to take action on the Final EIR, CUP, and related Project entitlements on or about June 23 and 25, with votes to be taken not later than June 25, 2014; and

**BE IT FURTHER RESOLVED**, so long as the Final EIR is issued on or about June 9, 2014, and so long as the Planning Commission acts on the Final EIR and Modernization CUP Application by June 25, 2014 as urged by the City Council, then the City Manager or his designee shall prepare all necessary documents to enable the City Council to take action on such matters on or about July 29 with votes to be taken by the City Council no later than July 31, 2014.

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I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond at a regular meeting held on June 3, 2014, by the following vote:

AYES: Councilmembers Bates, Boozé, Butt, and Myrick.

NOES: Councilmember Rogers, Vice Mayor Beckles, and Mayor McLaughlin.

ABSENT: None.

ABSTENTION: None.

DIANE HOLMES  
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

BRUCE GOODMILLER  
City Attorney

State of California     }  
County of Contra Costa     : ss.  
City of Richmond     }

I certify that the foregoing is a true copy of **Resolution No. 46-14**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on June 3, 2014.