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August 2, 2016

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Authorize the City Manager to execute a settlement agreement and all other necessary documents to settle potential litigation with the Long Beach Oil Development Company, American Energy, Conoco Phillips, ExxonMobil and Chevron in connection with remediation of the Operating Industries, Inc. Superfund Site.

DISCUSSION:

The City of Long Beach ("City") acts as Unit Operator for various oil production units located in the City (collectively, the "Units"). In 1964, in connection with its operation of the Units, City executed a contract ("Field Operator Contract") with a consortium of oil companies (collectively, the "Field Contractors") to act as the field contractor for the Units. The Field Operator Contract expired by its own terms in 1989.

Over the term of the Field Operator Contract and as part of their day-to-day operation of those portions of the Units located in the Tidelands only, the Field Contractors deposited certain hazardous oil wastes generated by the Unit operations at a disposal site in Monterey Park, California, operated by Operating Industries, Inc. (the "Site"). In 1988 the Environmental Protection Agency ("EPA") designated the Site as a "superfund site". The EPA further named the Field Contractors as potentially responsible parties obligated to pay for a share of remediation costs of the overall Site, and in turn the Field Contractors alleged that the City, as Unit Operator and primary beneficiary of the revenues generated by the Units, should reimburse the Field Contractors for a portion of such remediation costs.

The City claimed that it was not obligated to make any such reimbursements pursuant to the Field Operator Contract, and the City and the Field Contractors thereafter jointly agreed to toll the statute of limitations time period within which the Field Contractors were required to bring a lawsuit, in order to allow the parties to negotiate a settlement.

The parties which currently own the rights to seek reimbursement under the Field Operator Contract (and therefore constitute the Field Contractors as of the present date) are (1) Long Beach Oil Development Company, (2) American Energy, (3) Conoco Phillips, (4) ExxonMobil, and (5) Chevron.

The EPA has estimated that the Site will need to be actively remediated until at least 2071. Total remediation costs are estimated to be about \$500 million, and could increase significantly over the next 50 to 60 years.

After decades of either fruitless or stalled negotiations, the City and the Field Contractors recently submitted the dispute to a mediator. The City and the Field Contractors, using an economic model which takes into account actual remediation expenses to date and makes certain assumptions about future remediation costs, inflation rates and investment rates, among other things, have tentatively agreed that \$3 million reflects a reasonable present value of all potential future remediation costs. In exchange for a one-time payment of \$3 million from the City, the Field Contractors have agreed to release City from any and all future remediation liability, whether foreseen or unforeseen, in connection with the Site.

The settlement payment, if authorized, will be made from oil revenues generated only by the Tidelands portion of the Units. Because the State of California is entitled to all of the oil revenues generated in the Tidelands (Segment I), this settlement will have no economic impact on the City. Although the approval of this settlement by the State is not legally required, State Lands Commission staff have been briefed on the proposed settlement and are generally supportive. This proposed settlement will have no impact on the City's liability with respect to oil wastes attributable to operations at non-Tidelands oil fields (Segment II).

The Economic Development and Finance committee approved the proposed settlement on June 21, 2016.

**SUGGESTED ACTION:**

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

  
RICHARD F. ANTHONY  
Deputy City Attorney