

SUCCESSOR AGENCY RESOLUTION NO. 13-8

CITY COUNCIL RESOLUTION NO. 76-13

A RESOLUTION OF THE BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY AUTHORIZING EXECUTION OF AMENDMENTS INCREASING FUNDING AND MODIFYING TERMS OF CONTRACTS WITH EAGLE ENVIRONMENTAL CONSTRUCTION FOR ABATEMENT, DEMOLITION AND HISTORIC STRUCTURES RELOCATION AND SOIL REMEDIATION AND A CONTRACT WITH PES ENVIRONMENTAL FOR OWNER'S REPRESENTATIVE SERVICES RELATED TO THE MIRAFLORES HOUSING DEVELOPMENT SITE

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to make certain payments; and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association v. Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement; and

WHEREAS, on December 29, 2011 the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27 and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, in accordance with Health and Safety Code Section 34173, the Successor Agency to the Richmond Community Redevelopment Agency ("Successor Agency") was created on January 24, 2012; and

WHEREAS, the Successor Agency owns certain real property commonly known as the Miraflores Housing Development site, a 14 acre parcel bounded on the north by a portion of the BART rail line, to the east by Highway 80, to the south by Florida and Wall Avenues and to the west by South 45th and South 47th Streets (the "Property"); and

WHEREAS, the Successor Agency desires to assist with the development of for-sale housing and senior rental housing as proposed for the Miraflores Housing Development ("Project") at the Property; and

WHEREAS, the Property is contaminated with hazardous materials and in need of remediation activities, including hazardous building abatement, historic structures relocation and demolition (the "Abatement Work") and soil remediation (the "Soil Remediation Work"); and

WHEREAS, the former Agency budgeted necessary funds, including federal, State and local grant funds that the former Agency was able to secure for the Abatement Work and Soil Remediation Work in the Fiscal Year 2010-2011 budget item "Miraflores Housing Development"; and

WHEREAS, on January 4, 2011, the former Agency Board approved the funds for and award of contracts to Eagle Environmental Construction (EEC) (\$3,100,000) as the prime contractor for the Abatement Work and Soil Remediation Work and PES Environmental Inc. (PES) (\$700,000) to act on the former Agency's behalf as Owner's Representative for such work; and

WHEREAS, on January 28, 2011, the former Agency and EEC entered into an agreement to perform the Abatement Work (the "Abatement Agreement") in the amount of \$1,554,000; and

WHEREAS, in or about January 2011 the former Agency and EEC entered into an agreement to perform the Soil Remediation Work (the “Soil Remediation Agreement”) in the amount of \$1,299,987; and

WHEREAS, on January 28, 2011, the former Agency and PES entered into an agreement to act on the former Agency’s behalf as Owner’s Representative for the Abatement Work and the Soil Remediation Work (the “Owner’s Representative Contract”) in the amount of \$700,000; and

WHEREAS, costs associated with changes to clean up methodology, hazardous waste characterization, unexpected high volumes of construction debris and soil disposal, and the dismantling, abatement and preservation of historic structures has necessitated several amendments to the scope of work, schedule and budget for the EEC and PES agreements and contracts; and

WHEREAS, approximately \$950,000 in additional bond funding and a Department of Toxic Substance Control Brownfields grant (\$200,000) and below market loan (\$800,000) have been secured and budgeted for the completion of the Abatement Work and Soil Remediation Work in the Fiscal Year 2013- 2014 budget under line item “Miraflores Housing Development”; and

WHEREAS, the State Department of Finance has approved the use of bond funding for the Abatement Work and Soil Remediation Work under the Successor Agency’s Recognized Obligation Payment Schedule (ROPS III and ROPS 13-14A); and

WHEREAS, the projected budget for the Soil Remediation Work has been reduced from the original because the projected volume of contaminated soil to be removed from the site has been lowered, subject to field verification; and

WHEREAS, the Successor Agency and EEC seek to enter into a First Amendment to the Soil Remediation Agreement and Fifth Amendment to the Abatement Agreement in order to complete the Soil Remediation Work and Abatement Work; and

WHEREAS, the Successor Agency and PES seek to enter into a Third Amendment to the Owner’s Representative Contract in order to complete oversight and monitoring activities for the Abatement Work and Soil Remediation Work; and

WHEREAS, by the agenda report accompanying this Resolution and incorporated herein by reference (“Agenda Report”), the Board of the Successor Agency has been provided with additional information upon which the findings and actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED, that the Board of the Successor Agency, hereby finds the above recitals are true and correct and serve, together with the Agenda Report, as the basis for the findings and actions set forth in this Resolution.

BE IT FURTHER RESOLVED, that the Board of the Successor Agency hereby authorizes the additional expenditure of up to \$2,000,000 as authorized in its approved FY 2012-13 and proposed 2013-2014 budget for the Abatement Work and Soil Remediation Work in budget item “Miraflores Housing Development”.

BE IT FURTHER RESOLVED that the Board of the Successor Agency hereby approves the following amendments:

- 1) First Amendment to the Soil Remediation Agreement in the amount of \$1,200,000;
- 2) Fifth Amendment to the Abatement Agreement in the amount of \$100,000; and
- 3) Third Amendment to the Owner’s Representative Contract in the amount of \$600,000.

BE IT FURTHER RESOLVED that the Board of the Successor Agency hereby authorizes the Executive Director to execute the First Amendment to the Remediation

Agreement and the Fifth Amendment to the Abatement Agreement with Eagle Environmental Construction and the Third Amendment to the Owner's Representative Contract with PES Environmental and to make modifications to the terms and provisions of these amendments as necessary to facilitate the completion of the Abatement Work and Soil Remediation Work consistent with this Resolution.

I certify that the foregoing Joint Resolution was passed and adopted by the City Council of the City of Richmond and the Successor Agency to the Richmond Community Redevelopment Agency Board at a special meeting held on July 30, 2013, by the following vote:

AYES: Councilmembers Bates, Beckles, Butt, Myrick, Rogers, Vice Mayor Boozé, and Mayor McLaughlin.
NOES: None.
ABSTENTIONS: None.
ABSENT: 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. 76-13, finally passed and adopted by the City Council of the City of Richmond at a special meeting held on July 30, 2013.