

RESOLUTION NO. 13-14

A RESOLUTION OF THE BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, AUTHORIZING EXECUTION OF A CONTRACT AMENDMENT WITH PES ENVIRONMENTAL, INC. TO PREPARE A SECOND FIVE-YEAR REVIEW WORKPLAN AND REPORT, AND TO PERFORM FIVE YEARS OF ANNUAL SITE INSPECTIONS AND RELATED REPORTING FOR NINE DEED RESTRICTED AREAS IN MARINA BAY

WHEREAS, the City Council of the City of Richmond (the "City Council") adopted the Amended and Restated Redevelopment Plan for the Merged Project Area, adopted by Ordinance No. 17-10 N.S., dated May 4, 2010 (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Plan sets forth a plan for redevelopment of the Merged Project Area (the "Project Area"); and

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, AB 1X 26 and AB 1484 provide that successor agencies be designated as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authorities, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the California Redevelopment Law, are vested in the successor agencies; and

WHEREAS, in accordance with Health and Safety Code Section 34173, the City Council elected to become the Successor Agency to the Richmond Community Redevelopment Agency ("Successor Agency") at its regular meeting of January 24, 2012; and

WHEREAS, the Marina Bay Second Five-year Review Workplan and Report and to perform Five Years of Annual Site Inspections and Related Reporting for nine deed-restricted areas in Marina Bay Area Project (the "Project") is in the Project Area and is being conducted in accordance with O&M plans approved by the State Department of Toxic Substances Control ("DTSC"); and

WHEREAS, the Project will support the development and improvement of locations in Marina Bay; and

WHEREAS, the Successor Agency budgeted necessary funds for the Project in the approved FY 2012-2013 budget in line item "Project Monitoring"; and

WHEREAS, staff of the former Richmond Community Redevelopment Agency established in October, 2009 a contract (the "Contract") with PES Environmental, Inc. (PES) to perform annual site inspections and reports for eight deed restricted areas in Marina Bay in an amount not to exceed \$48,875.00; and

WHEREAS, the Successor Agency has received another property, Area FM, in January, 2013 and the DTSC has asked that this property also be included in the annual review workplan and report including inspections and related reporting; and

WHEREAS, DTSC has asked for a second five –year review workplan and report and to perform five years of annual site inspections and related reporting for nine deed restricted areas in Marina Bay and this additional request has caused the Project to exceed its original Contract funding; and

WHEREAS, on July 3, 2013, PES submitted a proposal to amend the Contract by \$88,500.00, in order to complete the DTSC required work including the preparation of a second five-year review workplan and report, and to perform Five Years of Annual Site Inspections and Related reporting for nine deed-restricted areas in Marina Bay; and

WHEREAS, the Project is included in the approved Recognized Obligation Payment Schedules ("ROPS") for the periods January 2013 to June 2013 and July 2013 to December 2013 as line item No. 88 approved by the Oversight Board of the Successor Agency at its meeting of February 21, 2013, and in compliance with HSC 34177 (l); and

WHEREAS, the California State Department of Finance, by its letter of May 17, 2013, determined the Project qualifies as an enforceable obligation; and

WHEREAS, HSC 34177 (a) requires that the Successor Agency make payments on debts and obligations listed on the approved ROPS; and

WHEREAS, the Successor Agency and NCE seeks to enter into a First Amendment to the Contract in order to complete additional sampling and analysis as required by DTSC; 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 \$88,500, as authorized in its approved FY 2013-2014 budget for the Marina Bay Soil Gas Evaluation Project in line item "Project Monitoring",

BE IT FURTHER RESOLVED that the Board of the Successor Agency hereby authorizes the Executive Director to execute the First Amendment to the Contract with PES Environmental, Inc. (PES) in the amount of \$88,500. and to make modifications to the terms and provisions of this amendment as necessary to facilitate the preparation of a Second Five-year Review Workplan and Report, and to perform Five Years of Annual Site Inspections and Related Reporting for nine deed-restricted areas in Marina Bay consistent with this Resolution. The total Contract amount, as amended, shall not exceed \$137,375.00.

I certify that the foregoing Resolution was passed and adopted by the Successor Agency to the Richmond Community Redevelopment Agency Board and the Richmond City Council at a regular meeting held on November 19, 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. 13-14**, finally passed and adopted by the Successor Agency to the Richmond Community Redevelopment Agency and Richmond City Council at a regular meeting held on November 19, 2013.