

**RESOLUTION NO. 117-13**

**A RESOLUTION OF THE BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY AUTHORIZING EXECUTION OF A SECOND AMENDMENT TO THE SOIL REMEDIATION AGREEMENT INCREASING FUNDING AND MODIFYING TERMS OF A CONTRACT WITH EAGLE ENVIRONMENTAL CONSTRUCTION FOR SOIL REMEDIATION ACTIVITIES RELATED TO THE MIRAFLORES HOUSING DEVELOPMENT SITE**

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**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 45<sup>th</sup> and South 47<sup>th</sup> 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 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 Soil Remediation Work in the Fiscal Year 2010-2011 budget item “Miraflores Housing Development”; 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**, 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 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 Soil Remediation Work under the Successor Agency’s Recognized Obligation Payment Schedule (ROPS III and ROPS 13-14A ); and

**WHEREAS**, on July 31, 2013, the Successor Agency and EEC entered into a First Amendment to the Soil Remediation Agreement in order to provide for fixed fees, require a performance bond and to increase funding to complete the Soil Remediation Work; and

**WHEREAS**, the Successor Agency and EEC seek to enter into a Second Amendment to the Soil Remediation Agreement in order to add an additional \$340,000 to the previously approved \$1,200,000 contract amount and remove references to fixed fees to complete the 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 approves the Second Amendment to the Soil Remediation Agreement authorizing the additional expenditure of up to \$340,000 as approved in its 2013-2014 budget for the Soil Remediation Work in budget item “Miraflores Housing Development”.

**BE IT FURTHER RESOLVED** that the Board of the Successor Agency hereby authorizes the Executive Director to execute the Second Amendment to Soil Remediation Agreement and to make modifications to the terms and provisions of this amendment as necessary to facilitate the completion of the Soil Remediation Work consistent with this Resolution.

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I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held December 17, 2013, by the following vote:

- AYES: Councilmembers Butt, Beckles, Myrick, Rogers, Vice Mayor Boozé, and Mayor McLaughlin
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: Councilmember Bates.

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. 117-13, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 17, 2013.