

SUCCESSOR AGENCY RESOLUTION NO. 14-10

A RESOLUTION OF THE BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY APPROVING AMENDMENTS TO CONTRACTS RELATED TO THE MIRAFLORES HOUSING DEVELOPMENT PROJECT WITH (1) EAGLE ENVIRONMENTAL CONSTRUCTION (EEC) FOR ABATEMENT, DEMOLITION, AND HISTORIC STRUCTURES RELOCATION AND INCREASING THE TOTAL CONTRACT PAYMENT AMOUNT BY \$286,755.23 TO A TOTAL AMOUNT OF \$4,800,000, (2) PES ENVIRONMENTAL, INC. ACTING AS THE SUCCESSOR AGENCY'S OWNER'S REPRESENTATIVE PROVIDING PROJECT OVERSIGHT AND MONITORING AND INCREASING THE TOTAL CONTRACT PAYMENT AMOUNT BY \$500,000 TO A TOTAL AMOUNT OF \$1,900,000, AND (3) HOLLAND & KNIGHT, LLP., TO CONTINUE TO PROVIDE ENVIRONMENTAL AND PROGRAMMATIC LEGAL SERVICES AND INCREASING THE CONTRACT PAYMENT AMOUNT BY \$120,000 FOR A TOTAL CONTRACT AMOUNT OF \$320,000; EXTENDING ALL CONTRACTS TO JUNE 30, 2018; AND AUTHORIZING AN AMENDMENT OF THE 2013-2015 BIENNIAL BUDGET FOR MIRAFLORES CLEANUP COSTS TO INCREASE EXPENDITURES BY \$620,000 TO BE FUNDED BY HOUSING BOND PROCEEDS

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

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 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 certain other soil remediation work performed

pursuant to a separate remediation contract (the “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 May 2011, the former Agency entered into an agreement to provide legal services for the Project with Holland and Knight, LLP (H&K) (the “Legal Services Agreement”) in the amount of \$50,000; 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 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, PES and H&K contracts; 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 13-14(A), (B) and 15 (A)); and

WHEREAS, the Successor Agency seeks to enter into a Sixth Amendment to the Abatement Agreement in order to complete the Abatement Work; and

WHEREAS, the Successor Agency seeks to enter into a Fifth 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, the Successor Agency seeks to enter into a Fourth Amendment to Legal Services Agreement to continue to provide legal services for the Project; and

WHEREAS, funding for the amended contracts will be provided from 2000B Housing Set-Aside Tax Allocation Revenue Bonds, 2004A and 2004B Tax Allocation Revenue Bonds, and 2007B Housing Set-Aside Subordinate Tax Allocation Bonds; 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 in the aggregate of \$620,000 and approving budget authority to amend the Successor Agency Capital Improvement Fund at budget line-item “Miraflores Housing Development”.

BE IT FURTHER RESOLVED that the Board of the Successor Agency hereby approves and authorizes the Executive Director to execute the following contract amendments:

- 1) Fourth Amendment to the Legal Services Agreement in the amount of \$120,000, with the term ending on June 30, 2018;

- 2) Sixth Amendment to the Abatement Agreement in the amount of \$286,755.23, with the term ending on June 30, 2018; and
- 3) Fifth Amendment to the Owner's Representative Contract in the amount of \$500,000, with the term ending on June 30, 2018.

I hereby certify that the foregoing resolution was passed and adopted by the Members of the Successor Agency to the Richmond Community Redevelopment Agency Board at a regular meeting held on September 16, 2014, by the following vote:

AYES: Councilmembers Bates, Boozé, Butt, Myrick, Rogers, Vice Mayor Beckles, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
Clerk of the Successor Agency

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Successor Agency Board Chair

Approved as to form:

BRUCE GOODMILLER
Successor Agency Attorney

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

I certify that the foregoing is a true copy of **Resolution No. 14-10**, finally passed and adopted by the Successor Agency to the Richmond Community Redevelopment Agency Board at a regular meeting held on September 16, 2014.