

**RESOLUTION NO. 22-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND ACTING AS SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, AUTHORIZING EXECUTION AND SUBMITTAL OF AN ALLOCATION REQUEST WITH MTC FOR REGIONAL MEASURE TWO FUNDS**

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**WHEREAS**, SB 916 (Chapter 715, Statutes 2004), commonly referred as Regional Measure 2, identified projects eligible to receive funding under the Regional Traffic Relief Plan; and

**WHEREAS**, the Metropolitan Transportation Commission (“MTC”) is responsible for funding projects eligible for Regional Measure 2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

**WHEREAS**, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 funding; and

**WHEREAS**, allocations to MTC must be submitted consistent with procedures and conditions as outlined in Regional Measure 2 Policy and Procedures; and

**WHEREAS**, the City of Richmond as Successor Agency to the Richmond Community Redevelopment Agency (“Successor Agency”) is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

**WHEREAS**, the Nevin Avenue Improvements Project (“Project”) is eligible for consideration in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

**WHEREAS**, the Regional Measure 2 allocation request and Initial Project Report attached to the agenda report accompanying this resolution (“Agenda Report”) and incorporated herein as though set forth at length, lists the Project, purpose, schedule, budget, expenditure and cash flow plan for which the Successor Agency is requesting that MTC allocate Regional Measure 2 funds.

**NOW, THEREFORE, BE IT RESOLVED**, that the Successor Agency and its agents shall comply with the provisions of the Metropolitan Transportation Commission’s Regional Measure 2 Policy Guidance (MTC Resolution No. 3636).

**BE IT FURTHER RESOLVED**, that the Successor Agency certifies that the Project is consistent with the Regional Transportation Plan (RTP);

**BE IT FURTHER RESOLVED**, that the year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the Project.

**BE IT FURTHER RESOLVED**, that the Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment.

**BE IT FURTHER RESOLVED**, that the Successor Agency approves the updated Initial Project Report and cash flow plan, attached to the Agenda Report.

**BE IT FURTHER RESOLVED**, that the Successor Agency has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the updated Initial Project Report, attached to the Agenda Report.

**BE IT FURTHER RESOLVED**, that the Successor Agency is an eligible sponsor of projects in the Regional Measure 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code 30914(c).

**BE IT FURTHER RESOLVED**, that the Successor Agency is authorized to submit an application for Regional Measure 2 funds for the Project in accordance with California Streets and Highways Code 30914(c).

**BE IT FURTHER RESOLVED**, that the Successor Agency certifies that the Project and purposes for which RM2 funds are being requested is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.) and if relevant the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et. seq. and the applicable regulations thereunder.

**BE IT FURTHER RESOLVED**, that there is no legal impediment to the Successor Agency making allocation requests for Regional Measure 2 funds.

**BE IT FURTHER RESOLVED**, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of the Successor Agency to deliver the Project.

**BE IT FURTHER RESOLVED**, that the Successor Agency indemnifies and holds harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of the Successor Agency, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages.

**BE IT FURTHER RESOLVED**, that the Successor Agency shall, if any revenues or profits from any non-governmental use of property (or project) that those revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the MTC is entitled to a proportionate share equal to MTC's percentage participation in the Project.

**BE IT FURTHER RESOLVED**, that assets purchased with RM2 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that Regional Measure 2 funds were originally used.

**BE IT FURTHER RESOLVED**, that the Successor Agency shall post on both ends of the construction site at least two signs visible to the public stating that the Project is funded with Regional Measure 2 Toll Revenues.

**BE IT FURTHER RESOLVED**, that the Successor Agency authorizes its Executive Director to execute and submit an allocation request for the design phase with MTC for Regional Measure 2 funds in the amount of \$88,235 for the Project, purposes and amounts included in the Project application attached to the Agenda Report

**BE IT FURTHER RESOLVED**, that the Executive Director is hereby delegated the authority to make non-substantive changes or minor amendments to the IPR as he/she deems appropriate.

**BE IT FURTHER RESOLVED**, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the Successor Agency's application referenced herein.

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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 on February 21, 2012, by the following vote:

AYES: Councilmembers Bates, Beckles, Booze, Ritterman, Vice Mayor Rogers, and Mayor McLaughlin.  
NOES: None.  
ABSENT: None.  
ABSTENTIONS: Councilmember Butt.

DIANE HOLMES  
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CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

RANDY RIDDLE  
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. 22-12, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on February 21, 2012.