

SUCCESSOR AGENCY RESOLUTION NO. 13-5

CITY COUNCIL RESOLUTION NO. 54-13

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND AND THE MEMBERS OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY BOARD AUTHORIZING EXECUTION OF A REIMBURSEMENT AGREEMENT WITH THE EAST BAY MUNICIPAL UTILITY DISTRICT FOR CONSTRUCTION OF A 12-INCH WATER MAIN RELOCATION ALONG MARINA BAY PARKWAY FOR THE OFFICER BRADLEY A. MOODY MEMORIAL UNDERPASS GRADE SEPARATION PROJECT

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, the Richmond Community Redevelopment Agency (the "former Agency") was responsible for administering the Redevelopment Plan to cause the redevelopment of the Project Area, including installation of public improvements consistent with the Redevelopment Plan; 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 provides 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 ("HSC") Section 34173, the Successor Agency to the Richmond Community Redevelopment Agency ("Successor Agency") was created on January 24, 2012; and

WHEREAS, the obligation to design and construct the Officer Bradley A. Moody Memorial Underpass Grade Separation Project ("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. 61, approved by the Oversight Board of the Successor Agency at its meetings of September 26, 2012 and February 21, 2013, respectively, and in compliance with HSC 34177 (l); and

WHEREAS, the California State Department of Finance, by its letter of September 17, 2012, determined the Project qualifies as an enforceable obligation; and

WHEREAS, the construction of the Project necessitates the relocation of East Bay Municipal Utility District's ("EBMUD") existing 12-inch diameter water main located under and in Marina Bay Parkway; and

WHEREAS, as required by law, EBMUD is required to relocate its facilities to accommodate public street improvement projects, including the Project; and

WHEREAS, EBMUD has requested that the Successor Agency construct approximately 1,210 feet of new 12-inch water main and remove the existing 12-inch main (the "Water Main Relocation") as part of the Project; and

WHEREAS, EBMUD and the Successor Agency see mutual benefit in consolidating construction of the Water Main Relocation and the Project, and the Successor Agency included the requirements for the Water Main Relocation in its bid documents for the Project; and

WHEREAS, Successor Agency requires that EBMUD pay for the cost of the Water Main Relocation, and EBMUD agrees to reimburse the Successor Agency for up to \$593,125 for the Water Main Relocation and for related costs including actual construction costs, Successor Agency contract administration costs, shared easement acquisition costs, and change orders related to the Water Main Relocation; and

WHEREAS, the Successor Agency budgeted the funds to be provided by EBMUD in the Fiscal Year 2012-2013 budget item "Officer Bradley A. Moody Memorial Underpass Project"; and

WHEREAS, by the agenda report accompanying this Joint Resolution ("Agenda Report") the City Council and Successor Agency Board have 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 City Council and Successor Agency Board find the above recitals are true and correct and have served, together with the Agenda Report, as the basis for the findings and actions set forth in this Resolution.

BE IT FURTHER RESOLVED that the City Council and Successor Agency Board hereby authorize the City Manager to execute the Agreement by and between the Successor Agency to the Richmond Community Redevelopment Agency and the East Bay Municipal Utility District for Construction of a 12-Inch Water Main Relocation Along Marina Bay Parkway ("Agreement"),

BE IT FURTHER RESOLVED that the City Council and Agency Board hereby authorize the expenditure of up to \$593,125.00 to be reimbursed under the Agreement, as authorized in its approved FY 2012-2013 budget for the Project in budget item "Officer Bradley A. Moody Memorial Underpass Project".

BE IT FURTHER RESOVLED that the City Council and Agency Board hereby authorize the City Manager execute amendments to the Agreement as needed to facilitate the completion of the Project.

BE IT FURTHER RESOLVED that the City Council and Successor Agency designate the City Clerk as the custodian of the documents and other materials which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the City Clerk at the Richmond City Hall, 450 Civic Center Plaza, Richmond, California 94804.

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 regular meeting held on June 18, 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. 54-13, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on June 18, 2013.