

**RESOLUTION NO. 76-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND ACTING AS SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, DIRECTING STAFF TO REJECT THE SOLE BID RECEIVED APRIL 24, 2012 FOR THE OFFICER BRADLEY A. MOODY MEMORIAL UNDERPASS PROJECT, TO ATTEMPT TO RESOLVE THE DISPUTE WITH THE STATE DEPARTMENT OF FINANCE CONCERNING DISAPPROVAL OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE ITEMS, AND TO READVERTISE THE PROJECT FOR BIDDING AFTER THE PROJECT IS RECOGNIZED AS AN ENFORCEABLE OBLIGATION OR OTHER FUNDS ARE SECURED TO COMPLETE THE FUNDING PLAN FOR PROJECT CONSTRUCTION**

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**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"). 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 "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**, pursuant to Health and Safety Code Section 34173(d), the City of Richmond is the successor agency to the dissolved Richmond Community Redevelopment Agency ("Successor Agency"), confirmed by Resolution No. 4-12 adopted by the City Council at its regular meeting of January 24, 2012; and

**WHEREAS**, the obligation to design and construct the Officer Bradley A. Moody Memorial Underpass Project ("Project") was included in the amended Recognized Obligation Payment Schedule ("ROPS") at Page 2 line item No. 5, approved by the Oversight Board of the Successor Agency at its meeting of April 24, 2012 and in compliance with AB 1X 26; and

**WHEREAS**, on May 17, 2012, the Oversight Board approved the First Amended ROPS and Second ROPS, both of which included the Project as a line item obligation; and

**WHEREAS**, Successor Agency staff advertised for the acceptance of construction bids for the Project for a 60 day period commencing February 29, 2012 and ending April 24, 2012 at 2:00 p.m.; and

**WHEREAS**, two pre-bid conferences for the Project were held, with 15 potential prime contractors fulfilling the mandatory prerequisite to attend a pre-bid conference prior to bidding; and

**WHEREAS**, only one bid was received prior to the April 24, 2012 2:00 p.m. deadline to receive bids; and

**WHEREAS**, the sole bid received is substantially over the Engineer's Estimate for the Project; and

**WHEREAS**, in a letter dated May 25, 2012, the State Department of Finance approved the ROPS but denied certain items as enforceable obligations, including the Project; and

**WHEREAS**, the Successor Agency disputes the State Department of Finance's determination that the Project is not an enforceable obligation; and

**WHEREAS**, pursuant to Richmond Municipal Code Section 2.52.346(a), the City Council may, in its discretion, reject any bids presented and direct re-advertisement for bids; and

**WHEREAS**, by the agenda report accompanying this Resolution ("Agenda Report") 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 Successor Agency finds 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 Successor Agency hereby directs staff to reject the sole bid received on April 24, 2012 for the Project.

**BE IT FURTHER RESOLVED**, that the Successor Agency hereby directs staff to attempt to resolve the dispute with the Department of Finance concerning disapproval of ROPS items, such that the Project may be determined to be an enforceable obligation of the Successor Agency.

**BE IT FURTHER RESOLVED**, that the Successor Agency hereby directs staff to re-advertise the Project for bidding after the Project is recognized as an enforceable obligation or other funds are secured to complete the funding plan for Project construction.

**BE IT FURTHER RESOLVED**, that the Successor Agency designates the City Clerk as the custodian of the documents and other material 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.

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I certify that the foregoing Resolution was passed and adopted by the City Council as Successor Agency to the Richmond Community Redevelopment Agency at a regular meeting held on June 19, 2012 by the following vote:

AYES: Councilmembers Bates, Beckles, Booze, Butt, Ritterman, Vice Mayor Rogers, 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. 76-12, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on June 19, 2012.