

## RESOLUTION NO. 5-13

### A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND AND THE BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY AUTHORIZING EXECUTION OF A PUBLIC HIGHWAY UNDERPASS CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD AND RICHMOND PACIFIC RAILROAD FOR THE OFFICER BRADLEY A. MOODY MEMORIAL UNDERPASS PROJECT

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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"); and

**WHEREAS**, the Redevelopment Plan sets forth a plan for redevelopment of the Merged Project Area (the "Project Area"); and

**WHEREAS**, the former 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**, access to the South Shoreline area of Project Area is impeded by lengthy trains traveling at low speed across closely-spaced grade crossings and such conditions are not expected to improve; and

**WHEREAS**, the former Agency commissioned a feasibility study for high-priority grade crossings and Marina Bay Parkway was demonstrated by the feasibility study and through a community process to be the preferred location to improve access to the South Richmond Shoreline area; and

**WHEREAS**, the former Agency and the California Department of Transportation entered into the Trade Corridors Improvement Fund Project Baseline Agreement ("TCIF Baseline Agreement") on May 4, 2009. The TCIF Baseline Agreement requires the former Agency to provide funds for the design and construction of a railroad grade separation in place of the existing grade crossing on Marina Bay Parkway between Meeker Avenue and Regatta Boulevard (the "Officer Bradley A. Moody Memorial Underpass"); 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**, in compliance with HSC Section 34177(l), the Successor Agency adopted a Recognized Obligation Payment Schedule for the period January 2013 to June 2013 (“ROPS III”) at its regular meeting of September 11, 2012 to allow the Successor Agency to make payments on debts and obligations listed on ROPS III; and

**WHEREAS**, the obligation to construct the Officer Bradley A. Moody Memorial Underpass was included on ROPS III as “Bradley A. Moody Memorial Underpass Project”, line item Nos. 58 and 61; and

**WHEREAS**, by its letter of September 17, 2012, the California Department of Finance approved the Officer Bradley A. Moody Memorial Underpass Project as an enforceable obligation; and

**WHEREAS**, HSC Section 34177(a) provides that the Successor Agency may make payments on debts and obligations listed on the approved ROPS III; and

**WHEREAS**, a Public Highway Underpass Crossing Agreement among the City of Richmond, Union Pacific Railroad and Richmond Pacific Railroad (“Agreement”) is required to grant the City and Successor Agency rights to construct the Officer Bradley A. Moody Memorial Underpass; and

**WHEREAS**, the Agreement establishes the scope of work to be performed by Union Pacific Railroad and Richmond Pacific Railroad forces for the Officer Bradley A. Moody Memorial Underpass, and provides for the City’s payment of costs associated with these rights and activities; and

**WHEREAS**, the Successor Agency budgeted the necessary funds for the Officer Bradley A. Moody Memorial Underpass in its Fiscal Year 2012-2013 budget as line item “Officer Bradley A. Moody Memorial Underpass”; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council and Successor Agency find the above recitals are true and correct, and have served together with the agenda report in support of this Resolution as the basis for the findings and approvals set forth in this Resolution.

**BE IT FURTHER RESOLVED**, that the City Council and Successor Agency hereby authorize the expenditure of \$50,050 identified in its approved FY 2012-2013 budget and its approved ROPS III for the Officer Bradley A. Moody Memorial Underpass.

**BE IT FURTHER RESOLVED**, that this Resolution authorizes the City Manager or his designee to execute the Agreement with the Union Pacific Railroad and the Richmond Pacific Railroad for consideration not to exceed \$50,050.

**BE IT FURTHER RESOLVED**, that this Resolution authorizes the City Manager to execute amendments or other agreements with the Union Pacific Railroad or Richmond Pacific Railroad such as may be necessary for the completion of the Officer Bradley A. Moody Memorial Underpass project.

**BE IT FURTHER RESOLVED** that the City Council and Successor Agency designate 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 Council of the City of Richmond at a regular meeting thereof held on February 5, 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. 5-13, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on February 5, 2013.