RESOLUTION NO. OB-14-30

A RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING THE SUCCESSOR AGENCY'S REALLOCATION AND USE OF FUNDS RECEIVED FROM THE REDEVELOPMENT PROPERTY TAX TRUST FUND IN THE AMOUNT OF $756,916 TO BE EXPENDED ON ENFORCEABLE OBLIGATIONS APPROVED ON RECOGNIZED OBLIGATION PAYMENT SCHEDULES

WHEREAS, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and to the California Health and Safety Code ("H&S Code"), including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the H&S Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

WHEREAS, on February 15, 2012, the Board of Directors of the Successor Agency, adopted Resolution No. SA-12-01 naming itself the "Imperial Beach Redevelopment Agency Successor Agency," the sole name by which it will exercise its powers and fulfill its duties pursuant to Part 1.85 of AB 26, and establishing itself as a separate legal entity with rules and regulations that will apply to the governance and operations of the Successor Agency; and

WHEREAS, H&S Code Section 34179 of AB 26 establishes a seven (7) member local entity with respect to each successor agency with fiduciary responsibilities to holders of enforceable obligations and taxing entities that benefit from distributions of property taxes, and such entity is titled the "oversight board." The oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to H&S Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in H&S Code Sections 34179 through 34181 of AB 26; and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484"), which amended certain provisions of AB 26. On September 29, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1585 ("AB 1585"), which further amended certain provisions of AB 26 as amended by AB 1484. On October 13, 2013, the Legislature passed and the Governor signed Senate Bill No. 341 ("SB 341"), which further amended certain provisions of

AB 26 as amended by AB 1484 and AB 1585 (AB 26, AB 1484, AB 1585, and SB 341 are collectively referred to herein as the "Dissolution Act"); and

WHEREAS, on April 12, 2013, the State Department of Finance ("Department of Finance") issued a Finding of Completion to the Successor Agency pursuant to H&S Code Section 34179.7 of the Dissolution Act; and

WHEREAS, pursuant to H&S Code Section 34171(h) of the Dissolution Act, a "Recognized Obligation Payment Schedule" ("ROPS") means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each 6-month fiscal period as provided in H&S Code Section 34177(m) of the Dissolution Act; and

WHEREAS, according to H&S Code Section 34177(l)(1) of the Dissolution Act, the Successor Agency shall prepare a ROPS before each 6-month fiscal period. For each recognized obligation, the ROPS shall identify one or more of the following sources of payment: (i) Low and Moderate Income Housing Funds, (ii) bond proceeds, (iii) reserve balances, (iv) administrative cost allowance, (v) the Redevelopment Property Tax Trust Fund ("RPTTF") but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of Part 1.85 of the Dissolution Act, and (vi) other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former Redevelopment Agency as approved by the Oversight Board in accordance with Part 1.85 of the Dissolution Act; and

WHEREAS, pursuant to H&S Code Section 34177 of the Dissolution Act, the Successor Agency adopted the First ROPS covering the period from January 1, 2012 through June 30, 2012 ("First ROPS"), the Second ROPS covering the period from July 1, 2012 through December 31, 2012 ("Second ROPS"), the Third ROPS covering the period from January 1, 2013 through June 30, 2013 ("Third ROPS"), the ROPS 13-14A covering the period from July 1, 2013 through December 31, 2013 ("ROPS 13-14A"), and the ROPS 13-14B covering the period from January 1, 2014 through June 30, 2014 ("ROPS 13-14B"); and

WHEREAS, in accordance with H&S Code Sections 34177(l)(2)(B) and 34180(g) of the Dissolution Act, the Oversight Board approved the First ROPS, Second ROPS, Third ROPS, ROPS 13-14A, and ROPS 13-14B as proposed by the Successor Agency. In accordance with the Dissolution Act, the Successor Agency submitted each of the Oversight Board-approved ROPS to the Department of Finance, the San Diego County Auditor-Controller ("County Auditor-Controller") and other entities as required by the Dissolution Act and by the statutory deadlines. The Department of Finance approved each ROPS, some with certain modifications; and

WHEREAS, pursuant to H&S Code Section 34183(a)(2) of the Dissolution Act, the County Auditor-Controller is required to make a payment of property tax revenues (i.e. former tax increment funds) from the RPTTF to the Successor Agency on January 2 and June 1 of each year for payments to be made toward recognized obligations listed on a ROPS and approved by the Department of Finance; and

WHEREAS, pursuant to H&S Code Section 34177(a)(4) of the Dissolution Act, the Successor Agency, with the prior approval of the Oversight Board, may make payments on enforceable obligations from sources other than those listed in the ROPS; and

WHEREAS, the Successor Agency has prepared, and approved at its meeting on February 19, 2014, the ROPS 14-15A covering the period from July 1, 2014 through December

31, 2014 ("ROPS 14-15A") for approval by the Oversight Board and the Department of Finance. In the ROPS 14-15A, the Successor Agency proposes to use excess RPTTF funds previously distributed to the Successor Agency for enforceable obligations listed on the ROPS 13-14A and the ROPS13-14B; and

WHEREAS, specifically, in accordance with H&S Code Section 34177(a)(4) of the Dissolution Act, the Successor Agency, at its meeting on February 19, 2014, approved, and recommended that its Oversight Board approve, a reallocation of the unspent balance of RPTTF in the total amount of $756,916 to be held as a reserve during the ROPS 13-14B period and to be used and expended toward enforceable obligations to be made during the ROPS 14-15A period as follows:

(a) There exists $26,267 of unexpended RPTTF from Item #18 (Litigation Costs/Fees) approved on the ROPS 13-14A. The Successor Agency desires to reallocate the $26,267 of unspent RPTTF to be held as a reserve during the ROPS 13-14B period and to use and expend the $26,267 as a partial payment toward the bond debt service payment on the 2010 Tax Allocation Bonds ("2010 Bonds") (Item #2 on the ROPS 14-15A) proposed during the ROPS 14-15A period; and

(b) There exists $640,143 of unexpended RPTTF from Item #1 (2003 Series A tax Allocation Bonds Debt Service Payment) approved on the ROPS 13-14B. Specifically, a total bond debt service payment of $1,028,787 for the 2003 Series A tax Allocation Bonds ("2003 Bonds") was approved for expenditure from prior RPTTF bond debt service reserves during the ROPS 13-14B period as Item #1 on the ROPS 13-14B. Since the 2003 Bonds were refunded in December 2013 by the issuance of the 2013 Series A Tax Allocation Refunding Bonds ("2013 Bonds") for savings pursuant to H&S Code Section 34177.5, the actual bond debt service payment for the 2013 Bonds during the ROPS 13-14B period was reduced to $388,644, leaving a balance of unspent RPTTF of $640,143. The Successor Agency desires to reallocate the $640,143 of unspent RPTTF to be held as a reserve during the ROPS 13-14B period and to use and expend the $640,143 as payments toward the debt service payments to be made during the ROPS 14-15A period on both the 2013 Bonds and the 2010 Bonds as follows: (i) $395,231 as payment in full of the bond debt service payment on the 2013 Bonds (Item #36 on the ROPS 14-15A) proposed during the ROPS 14-15A period and (ii) $244,912 as a partial payment toward the bond debt service payment on the 2010 Bonds (Item #2 on the ROPS 14-15A) proposed during the ROPS 14-15A period; and

(c) There exists a total balance of $90,506 of unspent RPTTF from non-contingent costs relating to the 2003 Bonds and the 2013 Bonds refunding matter approved on the ROPS 13-14B due to these costs being paid by the 2013 Bonds refunding proceeds, or were unexpended in the case of Item #28. Specifically, $19,000 of unspent RPTTF exists for Item #26 (Financial Advisor Costs), $25,500 of unspent RPTTF exists for Item #27 (Fiscal Consultant Costs), and $46,006 of unspent RPTTF exists for Item #28 (Successor Agency Fees and Costs), all as approved on the ROPS 13-14B. The Successor Agency desires to reallocate the $90,506 of unspent RPTTF to be held as a reserve during the ROPS 13-14B period and to use and expend the $90,506 as a partial payment toward the bond debt service payment on the 2010 Bonds (Item #2 on the ROPS 14-15A) proposed during the ROPS 14-15A period; and

WHEREAS, in accordance with H&S Code Section 34177(a)(4) of the Dissolution Act, the Oversight Board desires to approve the Successor Agency's reallocation of the unspent balance of RPTTF in the total amount of $756,916 to be held as a reserve during the ROPS 13-14B period and to be used and expended toward enforceable obligations to be made during the ROPS 14-15A period, as specified in the above recitals in this Resolution; and

WHEREAS, the activity proposed for approval by this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

WHEREAS, the activity proposed for approval by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because the activity proposed by this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met;

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency, as follows:

Section 1. The Oversight Board hereby determines that the foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Oversight Board hereby approves the Successor Agency's reallocation of the unspent balance of $756,916 from the Redevelopment Property Tax Trust Fund ("RPTTF") approved on the ROPS 13-14A ($26,267 of unspent RPTTF) and on the ROPS 13-14B ($730,649 of unspent RPTTF) to be held as a reserve during the ROPS 13-14B period and to be used and expended toward the debt service payments to be made during the ROPS 14-15A period on the 2013 Series A Tax Allocation Refunding Bonds ("2013 Bonds") and on the 2010 Tax Allocation Bonds ("2010 Bonds"), as shown on the ROPS 14-15A, in the amounts specified in the above recitals in this Resolution.

Section 3. The Oversight Board hereby adopts, approves, ratifies and confirms all actions taken by the Successor Agency and its staff to reallocate, use, and expend the $756,916 toward the debt service payments on the 2013 Bonds and the 2010 Bonds payable during the ROPS 14-15A period, as shown on the ROPS 14-15A, in the amounts specified in the above recitals in this Resolution.

Section 4. The Oversight Board hereby authorizes and directs the Executive Director, or designee, of the Successor Agency to take such actions and execute such instruments and documents as are reasonable, appropriate, and necessary or desirable to effectuate the intent of this Resolution.

Section 5. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6. The Oversight Board determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because the activity approved by this

Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.

Section 7. This Resolution shall take effect upon the date of its adoption and is subject to review by the Department of Finance in accordance with H&S Code Section 34179(h) of the Dissolution Act.

PASSED, APPROVED, AND ADOPTED by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 26th day of February 2014, by the following vote:

AYES:	**BOARD MEMBERS:**	**YANDA, SAADAT, HENTSCHKE, FOLTZ**
NOES:	**BOARD MEMBERS:**	**NONE**
ABSENT:	**BOARD MEMBERS:**	**WEST, WINTER**

Original Signature on File

DANIEL S. HENTSCHKE
ACTING CHAIRPERSON

ATTEST:

Original Signature on File

JACQUELINE M. HALD, MMC
SECRETARY