RESOLUTION NO. OB-14-31

A RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY FINDING THAT THE LOAN TOTALING $3,738,100 MADE BY THE CITY OF IMPERIAL BEACH TO THE FORMER IMPERIAL BEACH REDEVELOPMENT AGENCY WAS FOR LEGITIMATE REDEVELOPMENT PURPOSES, AND APPROVING THE LOAN AS AN ENFORCEABLE OBLIGATION AND THE SCHEDULE FOR REPAYMENT OF SAID LOAN BY THE SUCCESSOR AGENCY TO THE CITY OF IMPERIAL BEACH, IN ACCORDANCE WITH HEALTH AND SAFETY CODE SECTION 34191.4(b)

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 34191.4(b)(1) of the Dissolution Act, after the Successor Agency receives its Finding of Completion and upon application by the Successor Agency and approval of the Oversight Board, loan agreements entered into between the former Redevelopment Agency and the City shall be deemed to be enforceable obligations provided that the Oversight Board makes a finding that the loan was for legitimate redevelopment purposes. Upon the Oversight Board's approval and making of the required finding, the loan is deemed an enforceable obligation and may be listed on a ROPS for repayment and repaid by the Successor Agency from RPTTF or other available funds subject to the repayment terms and conditions specified in H&S Code Section 34191.4(b)(2); and

WHEREAS, the City made a loan of funds to the former Redevelopment Agency totaling $3,738,100 ("City Loan") pursuant to that certain Cooperation Agreement between the Redevelopment Agency and the City dated June 7, 1995, which date is immediately subsequent to the activation of the former Redevelopment Agency on May 3, 1995. The City Loan was also made pursuant to City Council/Redevelopment Agency Resolution No. R-03-40 dated June 4, 2003, the Redevelopment Agency's year-end financial statements beginning June 30, 1996 through June 30, 2004, and the Agreement between the Redevelopment Agency and the City dated May 17, 2006. The City Loan was made by the City to the former Redevelopment Agency for the Redevelopment Agency's use for legitimate redevelopment purposes in connection with the preparation and implementation of the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project adopted on February 7, 1996 and the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project Amendment No. 1 adopted on July 18, 2001 (collectively, the "Redevelopment Plans") and the implementation of, among other projects, capital improvement program projects; and

WHEREAS, pursuant to H&S Code Sections 34171(d)(2) and 34178(b)(2) of the

Dissolution Act, the City Loan was not invalidated by the Dissolution Act because the Cooperation Agreement between the Redevelopment Agency and the City dated June 7, 1995 providing loans/start-up funds to the former Redevelopment Agency was entered into within two years of formation of the Redevelopment Agency. Pursuant to H&S Code Sections 34171(d)(1)(B) and (E), 34171(d)(2), and 34178(b)(2) of the Dissolution Act, the City Loan would, therefore, constitute an enforceable obligation of the Successor Agency under the Dissolution Act repayable from the RPTTF. However, the Department of Finance, in its letter dated December 17, 2013, required that the Successor Agency's repayment of the City Loan be subject to the loan repayment terms and conditions of H&S Code Section 34191.4(b) of the Dissolution Act; and

WHEREAS, on September 25, 2013, the Oversight Board adopted Resolution No. OB-13-26, wherein the Oversight Board, among other actions, specifically (i) made a finding that the City Loan was made to the Redevelopment Agency for legitimate redevelopment purposes, (ii) determined that the City Loan constitutes an enforceable obligation of the Successor Agency under the Dissolution Act repayable from the RPTTF, (iii) acknowledged and agreed that the City Loan is now immediately due and payable in full in the principal amount of $3,738,100 to the City by the Successor Agency from the Successor Agency's RPTTF, and (iv) approved the Successor Agency's immediate repayment of the City Loan on the ROPS 13-14B in the total principal amount of $3,738,100. The Department of Finance, in its letter dated December 17, 2013, determined that the Successor Agency must wait until ROPS 14-15A to seek repayment of the City Loan on a ROPS from RPTTF so that the Fiscal Year 2013-2014 residual distributions to taxing entities would be known in order to calculate the maximum repayment amount for the applicable 6-month period; and

WHEREAS, at its meeting on February 19, 2014, the Successor Agency made a finding, and recommended to its Oversight Board that the Oversight Board make such finding, pursuant to H&S Code Section 34191.4(b)(1), that the City Loan was made by the City to the former Redevelopment Agency for legitimate redevelopment purposes in connection with the preparation and implementation of the Redevelopment Plans and the implementation of, among other projects, capital improvement program projects; and

WHEREAS, at its meeting on February 19, 2014, the Successor Agency further approved the City Loan as an enforceable obligation of the Successor Agency and approved the schedule for repayment of the City Loan from RPTTF as an enforceable obligation listed on a ROPS beginning with the first payment of $1,115,215 listed on the proposed ROPS for the 6-month period from July 1, 2014 through December 31, 2014 ("ROPS 14-15A") consistent and in accordance with the maximum repayment amounts specified in H&S Code Section 34191.4(b)(2)(A), with the remaining balance of the City Loan to be paid on successive ROPS in the maximum repayment amounts consistent and in accordance with H&S Code Section 34191.4(b)(2)(A) until the City Loan is repaid in full, subject to other applicable loan repayment terms and conditions set forth in H&S Code Section 34191.4(b)(2); and

WHEREAS, the Oversight Board desires to find, pursuant to H&S Code Section 34191.4(b)(1), that the City Loan was made by the City to the former Redevelopment Agency for legitimate redevelopment purposes in connection with the preparation and implementation of the Redevelopment Plans and the implementation of, among other projects, capital improvement program projects; and

WHEREAS, the Oversight Board further desires to approve the City Loan as an enforceable obligation of the Successor Agency and to approve the schedule for repayment of the City Loan from RPTTF as an enforceable obligation listed on a ROPS beginning with the first payment of $1,115,215 listed on the proposed ROPS for the 6-month period from July 1,

2014 through December 31, 2014 ("ROPS 14-15A") consistent and in accordance with the maximum repayment amounts specified in H&S Code Section 34191.4(b)(2)(A), with the remaining balance of the City Loan to be paid on successive ROPS in the maximum repayment amounts consistent and in accordance with H&S Code Section 34191.4(b)(2)(A) until the City Loan is repaid in full, subject to other applicable loan repayment terms and conditions set forth in H&S Code Section 34191.4(b)(2); and

WHEREAS, pursuant to H&S Code Section 34183(a)(2) of the Dissolution Act, the San Diego 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 June 1, 2014 for payments to be made toward recognized obligations listed on the ROPS 14-15A as approved by the Department of Finance, and on January 2 and June 1 annually for payments to be made toward recognized obligations listed on successive ROPS as approved by the Department of Finance; 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 finds, pursuant to H&S Code Section 34191.4(b)(1), that the City Loan described in the recitals above was made by the City to the former Redevelopment Agency for legitimate redevelopment purposes in connection with the preparation and implementation of the Redevelopment Plans and the implementation of, among other projects, capital improvement program projects.

Section 3. The Oversight Board hereby approves the City Loan as an enforceable obligation of the Successor Agency and approves the repayment of the City Loan from the Redevelopment Property Tax Trust Fund ("RPTTF") as an enforceable obligation listed on a ROPS beginning with the first payment of $1,115,215 listed on the proposed ROPS for the 6-month period from July 1, 2014 through December 31, 2014 ("ROPS 14-15A") consistent and in accordance with the maximum repayment amounts specified in H&S Code Section 34191.4(b)(2)(A), with the remaining balance of the City Loan to be paid on successive ROPS in the maximum repayment amounts consistent and in accordance with H&S Code Section 34191.4(b)(2)(A) until the City Loan is repaid in full, subject to other applicable loan repayment terms and conditions set forth in H&S

Code Section 34191.4(b)(2).

Section 4. The Oversight Board hereby authorizes and directs the Executive Director, or designee, of the Successor Agency to: (i) include the repayment of the City Loan on the ROPS 14-15A and on successive ROPS until repaid in full consistent and in accordance with H&S Code Section 34191.4(b)(2)(A), and to comply with all other applicable loan repayment terms and conditions set forth in H&S Code Section 34191.4(b)(2); (ii) provide such notifications as required by the Dissolution Act; and (iii) take such other actions and execute such other documents as are necessary or desirable to effectuate the intent of this Resolution on behalf of the Oversight Board.

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**

Signature on File

DANIEL S. HENTSCHKE
ACTING CHAIRPERSON

ATTEST:

Signature on File

JACQUELINE M. HALD, MMC
SECRETARY