

RESOLUTION NO. OB-13-23

A RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING THE ISSUANCE BY THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY OF TAX ALLOCATION REFUNDING BONDS RELATING TO THE PALM AVENUE/COMMERCIAL REDEVELOPMENT PROJECT

WHEREAS, the Imperial Beach Redevelopment Agency (the “Original 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) (the “Redevelopment Law”); and

WHEREAS, the City Council has adopted redevelopment plans for Imperial Beach’s redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

WHEREAS, the Original Agency was responsible for the administration of redevelopment activities within the City; 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 the California Health and Safety 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 California Health and Safety 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 Original 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 Original Agency upon the dissolution of the Original Agency under AB 26 (the “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, 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”, Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 was to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down process of former redevelopment agencies, including, without limitation, refunding or refinancing bonds or other indebtedness; and

WHEREAS, California Health and Safety Code Section 34179 of AB 26 as amended by AB 1484 (collectively, the "Dissolution Act") establishes a seven (7) member local entity with respect to each successor agency 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 California Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in California Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

WHEREAS, pursuant to California Health and Safety Code Section 34179.7 of the Dissolution Act, the California Department of Finance (the "Department of Finance") has issued a Finding of Completion to the Successor Agency; and

WHEREAS, the Original Agency is obligated to pay the original amount of \$22,765,000 under two Loan Agreements (the "2003 Loan Agreements") entered into in 2003 in connection with the issuance by the Imperial Beach Financing Authority, a joint powers authority created by and among the Original Agency and the City of Imperial Beach (the "City"), of its \$22,765,000 original amount of Tax Allocation Revenue Bonds, 2003 Series A (Palm Avenue/Commercial Redevelopment Project) (the "Authority Bonds") for the purpose of financing programs, projects and activities relating to the Original Agency's Palm Avenue/Commercial Redevelopment Project; payments due on the loan obligations are payable primarily from tax increment revenues derived from the Original Agency's Palm Avenue/Commercial Redevelopment Project (the "Redevelopment Project"); and

WHEREAS, AB 1484, among other things, amended the California Health and Safety Code to authorize the Successor Agency to issue bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Refunding Law") for the purpose of achieving debt service savings; and

WHEREAS, the Dissolution Act, at Section 34177.5 of the California Health and Safety Code, authorizes the Successor Agency to undertake proceedings for the refunding of outstanding bonds and other obligations of the Original Agency, subject to the conditions precedent contained in Section 34177.5 and the approval of the Successor Agency's Oversight Board; and

WHEREAS, the Successor Agency has determined that it is in the best financial interests of the Successor Agency to refund, at this time, the 2003 Loan Agreements; and

WHEREAS, on June 12, 2013, the Successor Agency's Oversight Board adopted Resolution No. OB-13-18, directing the Successor Agency to commence the refinancing or refunding of the 2003 Loan Agreements and authorizing the Successor Agency to recover all costs associated with said bond refinancing or refunding. The Department of Finance has approved Resolution No. OB-13-18; and

WHEREAS, the Original Agency has issued its \$21,595,000 aggregate principal amount of Palm Avenue/Commercial Redevelopment Project Tax Allocation Bonds, 2010 Tax Allocation Bonds (the "Series 2010 Bonds") for the purpose of financing redevelopment activities with respect to the Redevelopment Project, pursuant to an Indenture of Trust, dated as of November 1, 2010, by and between the Original Agency and Wells Fargo Bank, N.A., as Trustee (the "Series 2010 Indenture"); and

WHEREAS, the Successor Agency intends to refund the 2003 Loan Agreements by issuing an additional series of bonds designated as the "Imperial Beach Redevelopment Agency Successor Agency Palm Avenue/Commercial Redevelopment Project Tax Allocation Refunding Bonds, Series 2013" (the "Series 2013 Bonds") under and pursuant to the Refunding Law, the Redevelopment Law, the Dissolution Act, the Series 2010 Indenture, and the Constitution and other applicable laws of the State of California, and under, pursuant to and subject to the conditions and limitations of Section 34177.5 of the California Health and Safety Code, and such Bonds will be issued on parity with the Series 2010 Bonds, under and pursuant to the provisions of the Series 2010 Indenture; and

WHEREAS, the issuance of the Series 2013 Bonds will produce debt service savings, thereby increasing the amount of property taxes paid to the taxing entities.

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

SECTION 1. The Oversight Board determines that the proposed issuance of the Series 2013 Bonds will be of benefit to the taxing entities for the reasons set forth above and in the staff report accompanying this Resolution.

SECTION 2. In accordance with the Dissolution Act, including Sections 34177.5 and 34180 of the California Health and Safety Code, the Oversight Board hereby approves the Successor Agency's issuance of the Series 2013 Bonds in accordance with the terms of Successor Agency Resolution No. SA-13-27 and the Series 2010 Indenture, as proposed to be supplemented by a First Supplemental Indenture of Trust (collectively, the "Indenture"), provided that the issuance of the Series 2013 Bonds shall meet and be limited by the requirements of Section 34177.5(a) of the California Health and Safety Code. The Oversight Board hereby authorizes the Successor Agency to petition the Department of Finance for a final and conclusive determination pursuant to Section 34177.5(i) of the California Health and Safety Code.

SECTION 3. The Oversight Board hereby determines the following, which determinations may be relied on by Successor Agency in its issuance of the Bonds:

- (a) As provided in Resolution No. OB-13-18, the Successor Agency is authorized, as provided in Section 34177.5(f) of the California Health and Safety Code, to recover its costs related to the issuance of the Bonds from the proceeds of the Bonds, including the cost of reimbursing the Successor Agency and City for administrative staff time spent with respect to the authorization, issuance, sale and delivery of the Bonds;
- (b) The application of proceeds of the Bonds by the Successor Agency to the refunding of the 2003 Loan Agreements, as well as the payment by the Successor Agency of costs of issuance of the Bonds, as provided in the Indenture and authorized by Sections 34177.5(a) and (f) of the California Health and Safety Code, shall be implemented by the Successor Agency promptly upon delivery of the Bonds to the Underwriter, notwithstanding Section 34177.3 of the California Health and Safety Code or any other provision of law to the contrary, and without any further approval of the Oversight Board, or approval of the Department of Finance, the San Diego County Auditor-Controller or any other person or entity other than the Successor Agency;

- (c) The Successor Agency shall enter the amounts of the final debt service determined upon sale and delivery of the Bonds into Exhibit B–Debt Service Schedule attached to the First Supplement and the Debt Service Schedule shall not be amended except as provided in the Indenture; and
- (d) The Successor Agency shall be entitled to receive its full allocation of the Administrative Cost Allowance under Sections 34171(b) and 34183(a)(3) of the California Health and Safety Code, at an amount of not less than \$250,000 per fiscal year, without any deductions with respect to continuing costs related to the Bonds, such as trustee’s fees, auditing fees and fiscal consultant fees and continuing disclosure and rating agency costs (collectively, “Continuing Costs of Issuance”), and such Continuing Costs of Issuance shall be enforceable obligations payable from property tax revenues pursuant to Sections 34171(d)(1) and 34183(a)(2) of the California Health and Safety Code.

SECTION 4. This Resolution shall take effect immediately upon its passage; provided, however, that the Successor Agency will not issue the Series 2013 Bonds until either this Oversight Board action is deemed effective pursuant to the Dissolution Act or such Oversight Board action has been approved by the Department of Finance if review of this Oversight Board action is requested by the Department of Finance in accordance with 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 11th day of September 2013, by the following vote:

AYES: BOARD MEMBERS: YANDA, SAADAT, WINTER, FOLTZ
NOES: BOARD MEMBERS: NONE
ABSENT: BOARD MEMBERS: WEST, FERNANDEZ, HENTSCHE

 /s/
MAYDA C. WINTER, CHAIRPERSON

ATTEST:

 /s/
JACQUELINE M. HALD, MMC
SECRETARY