

RESOLUTION NO. SA-12-13

A RESOLUTION OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY ADOPTING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JANUARY 1, 2013 THROUGH JUNE 30, 2013

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, 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 Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, AB x1 26 (“AB 26”) and AB x1 27 (“AB 27”) were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) (“Part 1.85”) to Division 24 of the California Health and Safety Code (“Health and Safety Code”); and

WHEREAS, the California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California (*California Redevelopment Association, et al. v. Matosantos, et al.*, Case No. S194861) alleging that AB 26 and AB 27 were unconstitutional; and

WHEREAS, on December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case largely upholding as constitutional AB 26, invalidating as unconstitutional AB 27, and holding that AB 26 may be severed from AB 27 and enforced independently; and

WHEREAS, the Supreme Court generally reformed and revised the effective dates and deadlines for performance of obligations under Health and Safety Code Part 1.85 of AB 26 arising before May 1, 2012 to take effect four months later, while leaving the effective dates or deadlines for performance of obligations under Health and Safety Code Part 1.8 of AB 26 unchanged; and

WHEREAS, as a result of the Supreme Court’s decision, and on February 1, 2012, all California redevelopment agencies were dissolved, successor agencies were established as successor agencies to the former redevelopment agencies pursuant to Health and Safety Code Section 34173, and successor agencies are tasked with paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and winding down the 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, 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, 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 is 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; and

WHEREAS, Health and Safety Code Section 34179 of AB 26 as amended by AB 1484 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 Section 34179. The duties and responsibilities of the Oversight Board are set forth in Health and Safety Code Sections 34179 through 34181 of AB 26 as amended by AB 1484; and

WHEREAS, pursuant to Health and Safety Code Section 34177 of AB 26, the Successor Agency (i) prepared its draft Recognized Obligation Payment Schedule ("ROPS") by March 1, 2012, (ii) adopted the draft ROPS on February 15, 2012 for the period ending June 30, 2012, as modified administratively by the Executive Director, (iii) submitted the draft ROPS to the State of California Controller's Office and the State of California Department of Finance by April 15, 2012 for the period of January 1, 2012 through June 30, 2012, (iv) amended the draft ROPS as the first ROPS for submission to the State Controller's Office and the Department of Finance by April 15, 2012 and revised the ROPS to reflect the time period of January 1, 2012 through June 30, 2012, and (v) adopted the second ROPS covering the period from July 1, 2012 through December 31, 2012; and

WHEREAS, pursuant to Health and Safety Code Section 34177(m) of AB 26 as amended by AB 1484, the Successor Agency is required to submit the third ROPS for the period of January 1, 2013 through June 30, 2013, after its approval by the Oversight Board, to the Department of Finance and the County Auditor-Controller no later than September 1, 2012; and

WHEREAS, the third ROPS covering the period from January 1, 2013 through June 30, 2013 is attached to this Resolution as Exhibit "A"; and

WHEREAS, if adopted by the Successor Agency, the third ROPS shall thereafter be submitted to the Oversight Board for review and approval. In this regard, Health and Safety Code Section 34177(l)(2)(B) of AB 26 as amended by AB 1484 requires the Successor Agency to submit a copy of the third ROPS to the County Administrative Officer, the County Auditor-Controller, and the Department of Finance at the same time that the Successor Agency submits the third ROPS to the Oversight Board for approval; and

WHEREAS, pursuant to Health and Safety Code Section 34177(l)(2)(C) of AB 26, a copy of the approved third ROPS shall be submitted to the County Auditor-Controller and both the State Controller's Office and the Department of Finance and shall be posted on the Successor Agency's internet website; and

WHEREAS, pursuant to Health and Safety Code Section 34177(m)(1) of AB 26 as amended by AB 1484, the Successor Agency shall submit a copy of the third ROPS to the Department of Finance electronically and the Successor Agency shall complete the third ROPS in the manner provided by the Department of Finance; and

WHEREAS, pursuant to Health and Safety Code Section 34183(a)(2) of AB 26 as amended by AB 1484, the County is required to make a payment of property tax revenues (i.e. former tax increment funds) to the Successor Agency by January 2, 2013 for payments to be made toward recognized obligations listed on the third ROPS for the period of January 1, 2013 through June 30, 2013; and

WHEREAS, pursuant to Health and Safety Code Section 34177(l)(3) of AB 26 as amended by AB 1484, the ROPS shall be forward looking to the next six (6) months; and

WHEREAS, according to Health and Safety Code Section 34177(l)(1) of AB 26 as amended by AB 1484, 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 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 AB 26 as amended by AB 1484, 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 AB 26 as amended by AB 1484; and

WHEREAS, it is the intent of AB 26 as amended by AB 1484 that the ROPS serve as the designated reporting mechanism for disclosing the Successor Agency's bi-annual payment obligations by amount and source and that the County Auditor-Controller will be responsible for ensuring that the Successor Agency receives revenues sufficient to meet the requirements of the ROPS during each bi-annual period; and

WHEREAS, notwithstanding the provisions of Health and Safety Code Section 34177(a)(1) of AB 26 as amended by AB 1484, agreements between the City and the Redevelopment Agency have been included in the ROPS because, among other things, they have been validated by operation of law prior to the Governor's signature of AB 26 on June 28, 2011; and

WHEREAS, the proposed third ROPS attached to this Resolution as Exhibit "A" is consistent with the requirements of the Health and Safety Code and other applicable law; and

WHEREAS, 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, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

WHEREAS, this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because 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 Imperial Beach Redevelopment Agency Successor Agency, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any rights the Successor Agency may have to challenge the effectiveness and/or legality of all or any portion of AB X1 26 or AB 1484 through administrative or judicial proceedings.
- Section 3.** The Successor Agency's third ROPS, which is attached hereto as Exhibit "A", is approved and adopted. In connection with Item #14 listed on Page 3 of the ROPS, the Successor Agency approves the Successor Agency to reenter into the former Redevelopment Agency Reimbursement Agreement with the City of Imperial Beach, dated January 1, 2007, to reimburse the City for administrative and operational costs incurred by the City on behalf of the Successor Agency.
- Section 4.** The Executive Director, or designee, is hereby authorized and directed to: (i) provide the third ROPS to the Oversight Board for review and approval and concurrently submit a copy of the third ROPS to the County Administrative Officer, the County Auditor-Controller, and the Department of Finance; (ii) submit the third ROPS, as approved by the Oversight Board, to the Department of Finance (electronically) and the County Auditor-Controller no later than September 1, 2012; (iii) submit a copy of the third ROPS, as approved by the Oversight Board, to the State Controller's Office and post the third ROPS on the Successor Agency's internet website; (iv) revise the third ROPS, and make such changes and amendments as necessary, before official submittal of the third ROPS to the Department of Finance, in order to complete the third ROPS in the manner provided by the Department of Finance and to conform the third ROPS to the form or format as prescribed by the Department of Finance; and (v) take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.
- Section 5.** The Successor Agency determines that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because 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 6.** This Resolution shall take effect upon the date of its adoption.
- Section 7.** The Executive Director, or designee, is hereby authorized to make such non-substantive changes and amendments to the third ROPS as may be approved by the Executive Director of the Successor Agency and its legal counsel.

EXHIBIT "A"

**IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY
RECOGNIZED OBLIGATION PAYMENT SCHEDULE
January 1, 2013 through June 30, 2013
(“Third ROPS”)**

Approved on August 1, 2012

(See Attachment)

RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2013 (ROPS 3)

Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						Total	
				January	February	March	April	May	June		
Debt Obligations											
1	2003 Tax Allocation Bonds Series A	Wells Fargo Bank	Bond Debt Service pursuant to Health and Safety Code 34171 (d) (1) (A)	RPTTF					\$ 1,020,792	\$1,020,792	
2	2010 Tax Allocation Bonds Series	Wells Fargo Bank	Bond Debt Service pursuant to Health and Safety Code 34171 (d) (1) (A)	RPTTF					\$ 655,953	\$655,953	
4	2003 Tax Allocation Bonds Series A	Wells Fargo Bank	Bond Debt Service pursuant to Health and Safety Code 34171 (d) (1) (A)	RPTTF					\$518,787	\$518,787	
5	2010 Tax Allocation Bonds Series	Wells Fargo Bank	Bond Debt Service pursuant to Health and Safety Code 34171 (d) (1) (A)	RPTTF					\$524,003	\$524,003	
6	Housing Loan/Advance to make Bond Payment	Housing Authority	Advance/loaned Housing Deficiency Low Mod Tax Increment Funds loaned/advanced to pay May 2012 Bond Payments. H&S Code Section 34171 (d) (1) (G)	RPTTF	\$ 369,607					\$ 369,607	
7	Housing Loan/Advance to pay Enforceable Obligations	Housing Authority	Advance/loaned Housing Deficiency Low Mod Tax Increment Funds loaned/advanced to pay ROPS 1 & 2 enforceable obligations. H&S Code Section 34171 (d) (1) (G)	RPTTF	\$ 872,273					\$ 872,273	
8	Housing (HA) Loan/Advance to pay Enforceable Obligations	Housing Authority	Advance/loaned Housing Deficiency Low Mod Tax Increment Funds (HA) loaned/advanced to pay ROPS 1 & 2 enforceable obligations. H&S Code Section 34171 (d) (1) (G)	RPTTF	\$ 822,801					\$ 822,801	
Totals - Debt Obligations - This Page					\$ 2,064,681	\$ -	\$ -	\$ -	\$ 2,719,535	\$ -	\$ 4,784,216
Totals - Housing Program Related - Page 2					\$928,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$1,003,000
Totals - RDA Operating - Page 3					\$98,418	\$98,418	\$98,418	\$98,418	\$98,419	\$98,419	\$590,510
Totals - RDA Projects - Page 4					\$300	\$300	\$300	\$300	\$300	\$5,300	\$6,800
Totals - Prior Period ROPS Payments Due- Page 5					\$892,682	\$892,682	\$892,682	\$892,682	\$892,682	\$892,682	\$892,682
Total Enforceable Obligations					\$3,984,081	\$1,006,400	\$1,006,400	\$1,006,400	\$3,725,936	\$1,011,401	\$7,277,208

Note: Where RPTTF funds are not sufficient to pay enforceable obligations, the Successor Agency can use any funds it may have available at the time to make the payment on enforceable obligations.

Project Area(s) All

RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2013 (ROPS 3)

	Project Name / Debt Obl	Payee	Description	Funding	Payments by month						Total
					January	February	March	April	May	June	
Housing Programs											
2	Housing Agreement	Imperial Beach	For provisions of housing costs under CRL pursuant to Health and Safety Code 34171 (d) (3), 34176	RPTTF	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 90,000
44	Clean & Green Program *	Various Contractors/Project Management	Tax Exempt Bond Indenture Project	Low/Mod Excess Housing Bond Proceeds **	\$ 380,000						\$ 380,000
45	Habitat Project *	Habitat P.M. /Project Management	Tax Exempt Bond Indenture Project	Low/Mod Excess Housing Bond Proceeds **	\$ 533,000						\$ 533,000
Totals - This Page					\$928,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$1,003,000
<p>* Pursuant to Health and Safety Code Section 34176(g) of AB 26 as amended by AB 1484, the Housing Authority's designations of the use and commitment of the Excess Housing Bonds Proceeds toward the Clean & Green Program in the amount of \$380,000 and toward the Habitat Project in the amount of \$533,000 (i) are consistent with the 2003 Housing Bonds covenant obligations, including requirements relating to tax status, and (ii) that there are sufficient Excess Housing Bonds Proceeds available for the designated purposes.</p> <p>** Upon approval amounts to be transferred from Housing Authority to Successor Agency</p>											

Project Area(s) All

RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2013 (ROPS 3)

	Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						Total
					January	February	March	April	May	June	
RDA Operating											
2	Admin Costs	City of Imperial Beach	Per AB 26 /AB 1484	RPTTF	\$ 45,085	\$ 45,085	\$ 45,085	\$ 45,085	\$ 45,085	\$ 45,085	\$270,510
14	City Service Agreement	City of Imperial Beach	Per AB 26 - Health & Safety Codes Section 34171 (d) (1) (F), 34178 (a), 34180 (h)	RPTTF	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$240,000
17	Legal	McDougal/Kane Balmer	Legal Services provided to SA	RPTTF	\$13,333	\$13,333	\$13,333	\$13,333	\$13,334	\$13,334	\$80,000
Totals - This Page					\$98,418	\$98,418	\$98,418	\$98,418	\$98,419	\$98,419	\$590,510

RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2013 (ROPS 3)

	Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						
					January	February	March	April	May	June	Total
RDA Projects											
15	Hotel Project Requirement	City of Imperial Beach	Fulfillment of Project requirements per DDA	RPTTF						\$5,000	\$5,000
16	Capital Trailer Rental	Bert's	Temp Trailer for Project Management	RPTTF	\$300	\$300	\$300	\$300	\$300	\$300	\$1,800
Totals - This Page					\$ 300	\$ 300	\$ 300	\$ 300	\$ 300	\$ 5,300	\$ 6,800

RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2013 (ROPS 3)

Project Name / Debt Obligation	Payee	Description	Funding	Payments by month							
				Jan	Feb	Mar	Apr	May	Jun	Total	
Other Reconciling items											
1)	Due Diligence Review *	Lance Soll/Vavrinek Trine/Other	Pursuant to Health and Safety Code Sections 34177.3 (b), 34171 (d) (1) (C), 34171 (d) (1) (F), 34179.5	RPTTF	\$40,000						\$40,000
D-1	2003 Tax Allocation Bonds Serie	Wells Fargo Bank	Bond Debt Service	RPTTF	\$533,092						\$533,092
RO-4	RDA Unfunded PERS Liability	City of Imperial Beach	Unfunded Pension Liability as of 1/31/2012. Pursuant to Health and Safety Code Section 34171 (d) (1) (C)	RPTTF	\$319,590						\$319,590
Totals - Other Obligations					\$ 892,682	\$ -	\$ 892,682				

* Some or all of the funds may be paid to vendor between August 1, 2012 and December 31, 2012.