

## RESOLUTION NO. OB-13-16

### **A RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING THE LONG-RANGE PROPERTY MANAGEMENT PLAN PREPARED PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34191.5**

**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**, Assembly Bill No. X1 26 (2011-2012 1<sup>st</sup> 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 (“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 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 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**, 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, including the preparation of a Long-Range Property Management Plan (AB 26 as amended by AB 1484 is hereinafter referred to as the “Dissolution Act”); and

**WHEREAS**, Health and Safety Code Section 34179 of 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 Health and Safety Code Section 34179 of the Dissolution Act. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

**WHEREAS**, pursuant to Health and Safety Code Section 34191.5(b) of the Dissolution Act, once the California Department of Finance (“DOF”) issues a Finding of Completion to the Successor Agency pursuant to Health and Safety Code Section 34179.7 of the Dissolution Act, the Successor Agency shall prepare a Long-Range Property Management Plan (“Plan”) that addresses the disposition and use of certain real properties of the former Redevelopment Agency. The Plan shall be submitted to the Oversight Board and the DOF for approval no later than 6 months following the issuance of the Finding of Completion to the Successor Agency; and

**WHEREAS**, pursuant to Health and Safety Code Section 34191.5(a) of the Dissolution Act, upon the issuance of the Finding of Completion to the Successor Agency, a Community Redevelopment Property Trust Fund (“Trust”) will be established to serve as the repository of the former Redevelopment Agency’s real properties identified in the Due Diligence Reviews (“DDR”) by Health and Safety Code Section 34179.5(c)(5)(C) of the Dissolution Act (i.e. Procedure 7 of the DDRs.). The Trust shall be administered by the Successor Agency; and

**WHEREAS**, pursuant to Health and Safety Code Section 34191.4(a) of the Dissolution Act, upon the approval of the Plan by the DOF, all real property and interests in real property identified in the DDRs by Health and Safety Code Section 34179.5(c)(5)(C) of the Dissolution Act (i.e. Procedure 7 of the DDRs.) shall be transferred to the Trust, unless such a property is subject to the requirements of any existing enforceable obligation; and

**WHEREAS**, although the Dissolution Act requires that the Plan be submitted to the Oversight Board and the DOF for approval no later than 6 months following the issuance of the Finding of Completion to the Successor Agency, which the Successor Agency has yet to receive as of February 13, 2013, staff is processing the Plan for approval earlier than statutorily required in order to expedite, to whatever extent possible, the DOF’s review and approval of the Plan, in an effort to move the development forward in connection with two real properties identified in the proposed Plan; and

**WHEREAS**, Health and Safety Code Section 34191.5(c) of the Dissolution Act requires that the Plan (i) include an inventory of all properties in the Trust, which inventory shall consist of specific information relating to each such property including, without limitation, the date of and purpose for acquisition, value of property, applicable zoning, any property revenues and contractual requirements for disposition of same, history of environmental issues and any related studies and remediation efforts, potential for transit-oriented development and advancement of planning objectives of the Successor Agency, and history of previous development proposals and activity; and (2) address the use or disposition of all properties in the Trust, including the retention of such property for governmental use pursuant to Health and Safety Code Section 34181(a) of the Dissolution Act, the retention of such property for future development, the sale of such property, or the use of such property to fulfill an enforceable obligation; and

**WHEREAS**, on February 6, 2013 by Resolution SA-13-22, the Successor Agency approved the Plan, in substantial form as attached to the Staff Report prepared for the

Oversight Board's consideration of this Agenda Item, and the Successor Agency authorized the submission of the approved Plan to the Oversight Board for its approval; and

**WHEREAS**, the Plan is now being submitted to the Oversight Board for review and approval in accordance with Health and Safety Code Section 34191.5(b) of the Dissolution Act; and

**WHEREAS**, the Plan includes three (3) real properties ("Properties") that were identified in the Non-Housing DDR by Health and Safety Code Section 34179.5(c)(5)(C) of the Dissolution Act (i.e. Procedure 7 of the DDR). These Properties are all located in the City of Imperial Beach, County of San Diego, State of California, and described as follows: (1) 741-849 Palm Avenue; (2) 735 Palm Avenue; and (3) 800 Seacoast Drive. No real property assets were identified in the Housing DDR by Section 34179.5(c)(5)(C) of the Dissolution Act (i.e. Procedure 7 of the DDR); and

**WHEREAS**, for each of the Properties, the Plan includes all of the information required by Health and Safety Code Section 34191.5(c) of the Dissolution Act. Further, pursuant to Health and Safety Code Section 34191.5(c)(2), the two Properties located on Palm Avenue are being held for the anticipated sale and development, and all three Properties are being retained for purposes of fulfilling an enforceable obligation, as more specifically described in the Plan; and

**WHEREAS**, as required by Health and Safety Code Section 34180(j) of the Dissolution Act, the Successor Agency has submitted a copy of the Plan to the San Diego County Administrative Officer, the San Diego County Auditor-Controller ("County Auditor-Controller"), and the DOF at the same time that the Successor Agency submitted the Plan to the Oversight Board for approval; and

**WHEREAS**, as required by Health and Safety Code Section 34179(f) of the Dissolution Act, all notices required by law for proposed actions of the Oversight Board shall be posted on the Successor Agency's internet website or the Oversight Board's internet website; and

**WHEREAS**, pursuant to Health and Safety Code Section 34179(h) of the Dissolution Act, the Successor Agency is required to provide written notice and information about all actions taken by the Oversight Board, including the proposed approval of the Plan, to the DOF by electronic means and in the manner of the DOF's choosing; and

**WHEREAS**, pursuant to Health and Safety Code Section 34191.3 of the Dissolution Act, once the Plan is approved by the DOF pursuant to Health and Safety Code Section 34191.5(b) of the Dissolution Act, the Plan shall govern, and supersede all other provisions of the Dissolution Act relating to, the disposition and use of the Properties; 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, Sections 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 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. In this regard, the projects associated with the Properties identified in the Plan, along with their respective contractual agreements, have been reviewed and analyzed pursuant to CEQA and their required environmental documents have been prepared, circulated and approved/certified by

the appropriate lead agency; 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 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 constitutional, legal or equitable rights that the Successor Agency may have to challenge, through any administrative or judicial proceedings, the effectiveness and/or legality of all or any portion of AB 26 or AB 1484, any determinations rendered or actions or omissions to act by any public agency or government entity or division in the implementation of AB 26 or AB 1484, and any and all related legal and factual issue, and the Successor Agency expressly reserved any and all rights, privileges, and defenses available under law and equity.
- Section 3.** The Oversight Board hereby approves the Long-Range Property Management Plan ("Plan"), substantially in the form as attached to the Staff Report prepared for the Oversight Board's consideration of this Agenda Item.
- Section 4.** The Oversight Board hereby directs the Successor Agency to submit copies of the Plan approved by this Resolution as required under the Dissolution Act, in the method required, and in a manner to avoid a late submission. In this regard, the Oversight Board hereby authorizes and directs the Executive Director, or designee, of the Successor Agency to: (i) submit the Plan, as approved by the Oversight Board, and written notice of the Oversight Board's approval of the Plan, to the DOF (electronically in PDF format) and the County Auditor-Controller; (ii) post a copy of the Plan, as approved by the Oversight Board, on the Successor Agency's internet website; and (iii) revise the Plan and make such changes and amendments as necessary, before official submittal of the Plan to the DOF, in order to complete the Plan in the manner provided by the DOF and to conform the Plan to the form or format as prescribed by the DOF.
- Section 5.** The Oversight Board hereby authorizes and directs the Executive Director, or designee, of the Successor Agency to take such other actions and execute such other documents as are necessary to effectuate the intent 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.

