

## RESOLUTION NO.SA-12-14

### RESOLUTION OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING AND AUTHORIZING THE RETENTION OF A LICENSED ACCOUNTANT TO PERFORM SERVICES RELATING TO PREPARATION OF THE DUE DILIGENCE REVIEW AND RELATED ACTIONS PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34179.5

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

**WHEREAS**, Health and Safety Code Section 34179.5 requires the Successor Agency to employ a licensed accountant, approved by the San Diego County Auditor-Controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities in furtherance of Health and safety Code Section 34177(d); and

**WHEREAS**, pursuant to Health and Safety Code Section 34177.3(b), the Successor Agency may create enforceable obligations to conduct the work of winding down the Redevelopment Agency, including, without limitation, hiring staff and acquiring necessary professional administrative services; and

**WHEREAS**, Health and Safety Code Section 34171(d)(1)(C) of AB 26, as amended by AB 1484, defines an “enforceable obligation” to include payments required by obligations imposed by state law, such as the requirement of Section 34179.5 to employ a licensed accountant, and further Health and Safety Code Section 34171(d)(1)(F) of AB 26, as amended by AB 1484, defines an “enforceable obligation” to include contracts or agreements necessary for the administration or operation of the Successor Agency. As of February 1, 2012, pursuant to AB 26, as amended by AB 1484, property tax revenues (former tax increment revenues) are allocated to the County of San Diego and then to the Successor Agency for payment of enforceable obligations of the Redevelopment Agency and the Successor Agency; 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 includes an obligation pertaining to the estimated cost to the Successor Agency in the amount of \$40,000 to retain a licensed accountant to perform services relating to preparation of the due diligence review and related actions pursuant to Health and Safety Code Section 34179.5; and

**WHEREAS**, pursuant to Health and Safety Code Sections 34171(d)(1)(C), 34171(d)(1)(F), and 34177.3(b), the cost to the Successor Agency in the estimated amount of \$40,000 to retain a licensed accountant to perform services relating to preparation of the due diligence review and related actions pursuant to Health and Safety Code Section 34179.5 shall constitute an enforceable obligation of the Successor Agency payable from the property tax

revenues available to be allocated to the Successor Agency by the County of San Diego to pay enforceable obligations pursuant to a valid ROPS; and

**WHEREAS**, pursuant to Health and Safety Code Section 34183(a)(2) of AB 26, as amended by AB 1484, the County of San Diego is required to make a payment of property tax revenues 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**, 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 waive, 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 administrative or judicial proceedings, the effectiveness and/or legality of all or any portion of AB X1 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 X1 26 and AB 1484, and any and all related legal and factual issues, and the Successor Agency expressly reserves any and all rights, privileges, and defenses available under law and equity, including the right to increase the estimated cost of \$40,000 to the Successor Agency, as necessary, for retaining a licensed accountant to perform services relating to preparation of the due diligence review and related actions pursuant to Health and Safety Code Section 34179.5.
- Section 3.** The Successor Agency hereby approves, authorizes and directs the Executive Director, or designee, to retain a licensed accountant, approved by the San Diego County Auditor-Controller and with experience and expertise in local government accounting, for an estimated cost of \$40,000, to perform the services relating to preparation of the due diligence review and related actions pursuant to Health and Safety Code Section 34179.5.

