RESOLUTION NO. SA-12-15

RESOLUTION OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT AND THE TRANSFER OF OWNERSHIP OF REAL PROPERTY AND RETENTION AND OWNERSHIP OF CERTAIN PUBLIC IMPROVEMENTS

WHEREAS, AB X1 26 (2011-2012 1st Ex. Sess.) (the "Dissolution Act") was signed by the Governor of California on June 28, 2011, making certain changes 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 the California Health and Safety Code (the "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, on December 29, 2011, the California Supreme Court delivered its decision in *California Redevelopment Association v. Matosantos*, finding the Dissolution Act largely constitutional and reformed certain deadlines set forth in the Dissolution Act; and

WHEREAS, under the Dissolution Act and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Imperial Beach Redevelopment Agency (the "Former 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 (the "City Council") of the City of Imperial Beach (the "City") adopted Resolution No. 2012-7136 on January 5, 2012, accepting for the City the role of Successor Agency to the Former Agency (the "Successor Agency") pursuant to Part 1.85 of the Dissolution Act; and

WHEREAS, the Dissolution Act was amended when the Governor signed Assembly Bill 1484 ("AB 1484") on June 27, 2012 (reference hereinafter to the Dissolution Act means Assembly Bill X1 26 as amended by AB 1484); and

WHEREAS, under the Dissolution Act, each Successor Agency shall have an oversight board with fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property taxes and other revenues pursuant to Health and Safety Code Section 34188; and

WHEREAS, 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 the Dissolution Act; and

WHEREAS, the City has entered into that certain Disposition and Development Agreement by and between the City and Sudberry-Palm Avenue LLC, a California limited liability company (the "Developer") dated December 14, 2011 (the "DDA") for the development of (i) a privately owned "town center" of new construction combining retail with commercial space in a pedestrian-friendly environment, consisting of approximately 46,200 square feet of building area in seven (7) buildings (designated as Parcels A through G), surface parking consisting of 238 parking stalls, landscaping, hardscaping, lighting, driveways, and related

improvements (defined in the DDA as the "Private Improvements"), and (ii) certain off-site public improvements, including without limitation intersection improvements at Delaware Avenue, Palm Avenue and State Route 75 and all associated improvements, curb, gutter, landscaping, traffic signal, alley and undergrounding improvements required for the Project, and any other Cal-Trans requirements (defined in the DDA as the "Public Improvements"), (the Private Improvements and the Public Improvements are collectively defined as the "Project"); and

WHEREAS, the DDA pertains to that certain real property constituting two (2) parcels (Parcels A - Assessor Parcel Number: 626-250-03, and Parcel B - Assessor Parcel Number 626-250-04 Thru 06) and additional land vacated by the City comprising approximately 4.75 acres located generally at the south side of Palm Avenue (State Route 75), between 7th Street and 9th Street, Imperial Beach, California and (defined collectively in the DDA as the "Site"); and

WHEREAS, the DDA contemplates the disposition of the Site to the Developer for the development of the Project pursuant to the DDA; and

WHEREAS, the DDA further contemplates the City's retention and ownership of the Public Improvements to be constructed on and off the Site pursuant to the DDA; and

WHEREAS, the Site is located within the geographical area of the Palm Avenue/Commercial Redevelopment Project (the "Project Area"); the Project complies with and furthers the goals and objectives of the Redevelopment Plan for the Project Area approved and adopted by the City Council of the City on February 6, 1996 by Ordinance No. 96-901, as subsequently amended (the "Redevelopment Plan") and the Project also furthers municipal and other public purposes; and

WHEREAS, Health and Safety Code Section 34181(a) provides, in pertinent part, that the Oversight Board shall direct the Successor Agency to transfer ownership to the appropriate public jurisdiction of all assets and property constructed and used for governmental purposes; and

WHEREAS, the City is the appropriate public jurisdiction for ownership of the Public Improvements pursuant to the DDA due to the nature of the Public Improvements that will be developed as part of the Project and constructed and used for governmental purposes, as authorized pursuant to Health and Safety Code Section 34181(a); and

WHEREAS, a Mitigated Negative Declaration (MND) was prepared for the Project, routed for public review and submitted to the State Clearinghouse (SCH #2011111018) for agency review pursuant to the provisions of the California Environmental Quality Act ("CEQA"). The City Council of the City approved and certified the information contained in the Final MND for the Project on December 14, 2011, which included mitigation measures that will avoid or reduce all potentially significant environmental effects to below a level of significance. This activity has been determined to be adequately addressed in the Final MND for the Project, and there is no substantial change in circumstances, new information of substantial importance, or project changes which would warrant additional environmental review; therefore, no further environmental review is required under the CEQA pursuant to State CEQA Guidelines Section 15162.

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 Successor Agency hereby approves of the terms of the DDA.

Section 3: The Successor Agency hereby approves of the sale and conveyance of the Site from the City to the Developer in accordance with the terms and conditions set forth in the DDA, for the purpose of the Developer developing the Project.

Section 4: The Successor Agency hereby approves the City's transfer to the Successor Agency of the residual proceeds received from the sale of the Site to the Developer for the Successor Agency's use and distribution for approved development projects or to otherwise wind down the affairs of the Former Agency pursuant to Health and Safety Code Section 34177(e).

Section 5: The Successor Agency hereby approves the City's retention and ownership of the Public Improvements to be constructed on and off the Site pursuant to the DDA.

Section 6: The Successor Agency hereby acknowledges and agrees that the DDA constitutes the existence of an enforceable obligation pursuant to Part 1.8 and Part 1.85 of Division 24 of the Health and Safety Code for the purposes of, without limitation, the disposition of assets previously owned by the Former Agency.

Section 7: The Successor Agency hereby authorizes and directs the Executive Director of the Successor Agency, or his or her designee, and the City Manager, or his or her designee, to take all actions and sign any and all documents necessary to implement and effectuate the DDA and the actions approved by this Resolution including, without limitation, approving extensions of deadlines set forth in the DDA and the Schedule of Performance (Attachment No. 5 to the DDA) as determined necessary by the City Manager, or his or her designee, under the DDA, approving amendments to the DDA and its Attachments as determined necessary by the City Manager, or his or her designee, to effectuate the DDA, executing documents on behalf of the Successor Agency and City (including, without limitation, grant deeds and quitclaim deeds), and administering the Successor Agency's and City's obligations, responsibilities and duties to be performed pursuant to this Resolution.

Section 8: The Successor Agency does not intend, by adoption of this Resolution, to waive any constitutional, legal and/or equitable rights of the Successor Agency or the City under law and/or in equity, including, without limitation, the effectiveness of the DDA or previous actions taken with respect to the DDA, by virtue of the adoption of this Resolution and actions approved and taken pursuant to this Resolution and, therefore, reserves all such rights of the Successor Agency and the City under law and/or in equity.

Section 9: A Mitigated Negative Declaration (MND) was prepared for the Project, routed for public review and submitted to the State Clearinghouse (SCH #2011111018) for agency review pursuant to the provisions of the California Environmental Quality Act ("CEQA"). The City Council of the City approved and certified the information contained in the Final MND for the Project on December 14, 2011, which included mitigation measures that will avoid or reduce all potentially significant environmental effects to below a level of significance. This activity has been determined to be adequately addressed in the Final MND for the Project, and there is no substantial change in circumstances, new information of substantial importance, or project changes which would warrant additional environmental review; therefore, no further environmental review is required under the CEQA pursuant to State CEQA Guidelines Section 15162.

PASSED, APPROVED, AND ADOPTED by the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 15th day of August 2012, by the following vote:

AYES:	**BOARDMEMBERS:**	**KING, BRAGG, SPRIGGS, JANNEY**
NOES:	**BOARDMEMBERS:**	**NONE** [redacted]
ABSENT:	**BOARDMEMBERS:**	**BILBRAY** [redacted]

JAMES C. JANNEY
CHAIRPERSON

ATTEST:

[redacted]

JACQUELINE M. HALD, MMC
SECRETARY