

Resolution No. OB-2020-021  
Meeting Date: August 20, 2020

A RESOLUTION OF THE SAN DIEGO COUNTYWIDE REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD APPROVING, AND AUTHORIZING THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY EXECUTIVE DIRECTOR TO EXECUTE, AGREEMENTS FOR PROFESSIONAL SERVICES WITH MONTAGUE DEROSE AND ASSOCIATES, AS MUNICIPAL ADVISOR; JONES HALL, AS BOND AND DISCLOSURE COUNSEL; AND FRASER & ASSOCIATES, AS FISCAL CONSULTANT, TO PROVIDE PROFESSIONAL SERVICES FOR THE POSSIBLE REFUNDING OF THE SERIES 2013 TAX ALLOCATION BONDS AND APPROVING RELATED ACTIONS IN CONNECTION THEREWITH

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

WHEREAS, the Original Agency was responsible for the administration of redevelopment activities within the City, including within and for the Palm Avenue/Commercial Redevelopment Project (“Redevelopment Project”) established pursuant to that certain Redevelopment Plan approved by Ordinance No. 96-901 adopted by the City Council of the City on February 7, 1996, as amended by Ordinance No. 2001-970 adopted by the City Council of the City on July 18, 2001, and as subsequently amended (“Redevelopment Plan”); 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 adding Part 1.8 (commencing with section 34161) and Part 1.85 (commencing with section 34170) 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 AB 26, electing for the City to serve as the successor agency to the Original Agency upon the dissolution of the Original Agency on February 1, 2012 (“Imperial Beach Redevelopment Agency Successor Agency”, hereinafter referred to as the “Successor Agency”). The Successor Agency is a separate legal entity from the City; and

WHEREAS, AB 26 has since been amended by various assembly and senate bills enacted by the Legislature and signed by the Governor (AB 26, as amended, and as may be amended, is hereinafter referred to as the “Dissolution Law”); and

WHEREAS, in 2018, the County of San Diego Countywide Redevelopment Successor Agency Oversight Board (“Oversight Board”) was established pursuant to Health and Safety Code section 34179(j) of the Dissolution Law. Pursuant to the Dissolution Law, the Oversight Board reviews actions of the Successor Agency and possesses fiduciary responsibilities to holders of enforceable obligations and taxing entities that benefit from distributions of property taxes and other revenues; and

WHEREAS, Health and Safety Code section 34177.5 of the Dissolution Law authorizes the Successor Agency to undertake proceedings for the refinancing or refunding of outstanding bonds and other obligations of the Original Agency for debt service savings, subject to the conditions precedent contained in section 34177.5 and subject to the approval by the Successor Agency’s Oversight Board as provided in Health and Safety Code section 34180 of the Dissolution Law. Section 34177.5 further authorizes 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 (“Refunding Law”) for the purpose of achieving debt service savings; and

WHEREAS, on December 4, 2013, the Successor Agency issued its \$17,260,000 principal amount of Palm Avenue/Commercial Redevelopment Project Tax Allocation Bonds, 2013 Tax Allocation Bonds (“Series 2013 Bonds”) pursuant to an Indenture of Trust, dated as of November 1, 2010, by and between the Original Agency and Wells Fargo Bank, National Association, as Trustee (“Trustee”) (“Original Indenture”) and a First Supplemental Indenture of Trust, dated as of December 1, 2013, by and between the Successor Agency and the Trustee (“First Supplement”). The purpose for the Series 2013 Bonds was to refund two Loan Agreements entered into in 2003 in connection with the issuance by the Imperial Beach Financing Authority, a joint powers authority created by and between the Original Agency and the City, and the Original Agency of bonds in 2003 for the purpose of financing programs, projects, and activities relating to the Redevelopment Project. Payments due on the Series 2013 Bonds are payable from tax increment revenues derived from the Redevelopment Project; and

WHEREAS, the Oversight Board desires the Successor Agency to take advantage of the current low interest rate environment in order to minimize the Successor Agency's total interest costs on outstanding debt by refinancing/refunding the Series 2013 Bonds at a comparatively lower borrowing cost than the current bond issue's remaining average borrowing cost; and

WHEREAS, in order to effectuate the refunding of the Series 2013 Bonds, the Oversight Board desires the Successor Agency to retain the services of Montague DeRose and Associates, Jones Hall, and Fraser & Associates to provide financial, legal and advisory services for the possible refunding of the Series 2013 Bonds. Each Montague DeRose and Associates, Jones Hall, and Fraser & Associates has represented that it possesses the necessary qualifications to provide the respective services required by the Successor Agency; and

WHEREAS, on August 5, 2020, the Successor Agency approved Resolution No. SA-20-74 approving the Agreements for Professional Services (individually, an "Agreement", and collectively, the "Agreements") to retain the services of Montague DeRose and Associates, Jones Hall, and Fraser & Associates and approving related actions in connection therewith. A copy of Resolution No. SA-20-74 has been provided to the Oversight Board and is on file with the Successor Agency; and

WHEREAS, the fees for municipal advisor services provided by Montague DeRose and Associates shall be a not-to-exceed amount of \$55,000, which fees are contingent on the successful closing of the bond issuance and payable in accordance with the Agreement from the proceeds of the refunding bonds after issuance; and

WHEREAS, the fees for bond and disclosure counsel services provided by Jones Hall shall be a not-to-exceed amount of \$60,000 for bond counsel services and a not-to-exceed amount of \$35,000 for disclosure counsel services, which fees are contingent on the successful closing of the bond issuance and payable in accordance with the Agreement from the proceeds of the refunding bonds after issuance; and

WHEREAS, the fees for fiscal consultant services provided by Fraser & Associates shall be a not-to-exceed amount of \$20,000, which fees are not contingent on the closing of the bond issuance and therefore payable by the Successor Agency when due in accordance with the Agreement from available funds; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the County of San Diego Countywide Redevelopment Successor Agency Oversight Board, as follows:

- Section 1. The Oversight Board determines that the possible refunding of the Series 2013 Bonds will be of benefit to the taxing entities for the reasons set forth in the recitals above and in the staff report and documents accompanying this Resolution.
- Section 2. Consistent with the compensation limits specified in the recitals above, the Oversight Board hereby approves the Agreements for Professional Services (“Agreements”) with Montague DeRose and Associates, Jones Hall, and Fraser & Associates in substantial form as the Agreements presented to the Oversight Board, for professional services related to the refunding of the Series 2013 Bonds. Payments for contingent fees payable to Montague DeRose and Associates and Jones Hall, respectively, pursuant to their respective Agreement will be made from the proceeds of the refunding bonds after issuance. Payments for the non-contingent fees payable to Fraser & Associates will be made by the Successor Agency from available funds including Redevelopment Property Tax Trust Fund distributions pursuant to an approved Recognized Obligation Payment Schedule (and the Successor Agency may seek payment or reimbursement of these costs as an “enforceable obligation” of the Successor Agency as part of its Recognized Obligation Payment Schedule).
- Section 3. The Oversight Board hereby authorizes and directs the Successor Agency Executive Director, or designee, to execute the Agreements in substantial form as the Agreements presented to the Oversight Board, upon the effectiveness of the Oversight Board’s actions approved by this Resolution under the Dissolution Law.
- Section 4. The Oversight Board hereby authorizes the Successor Agency Executive Director, or designee, to make non-substantive changes and amendments to the Agreements deemed necessary and as approved by the Successor Agency Executive Director and its legal counsel, and directs the Successor Agency to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Oversight Board.
- Section 5. The Oversight Board hereby directs and authorizes the Successor Agency to:
- A. Proceed with preparation of documents and analysis required to refund the Series 2013 Bonds, pursuant to Health and Safety Code section 34177.5(f) of the Dissolution Law, so long as the savings regulations set forth in Health and Safety Code section 34177.5

are met; and

- B. Authorize the costs incurred to refund the Series 2013 Bonds and issue the refunding bonds to be recognized as enforceable obligations and recovered on the Successor Agency's Recognized Obligation Payment Schedule.

Section 6. The Oversight Board hereby makes the following determinations upon which the Successor Agency shall rely in its execution of the Agreements and undertaking the refunding proceedings for the Series 2013 Bonds and the issuance of the refunding bonds:

- A. The Successor Agency is authorized, as provided in Health and Safety Code sections 34177.5(a) and (f) of the Dissolution Law, to recover its costs related to the refunding proceedings for the Series 2013 Bonds and the issuance of the refunding bonds, including reimbursing the Successor Agency and the City for administrative staff time spent; and
- B. The Successor Agency shall be entitled to receive its full Administrative Cost Allowance under Health and Safety Code sections 34171(b) and 34183(a)(3) of the Dissolution Law without any deductions with respect to costs related to the refunding proceedings for the Series 2013 Bonds and the issuance of the refunding bonds, and such costs shall be enforceable obligations under the Dissolution Law payable from property tax revenues pursuant to Health and Safety Code sections 34171(d)(1) and 34183(a)(2) of the Dissolution Law. In addition, and as provided by Health and Safety Code section 34177.5(f) of the Dissolution Law, if the Successor Agency is unable to complete the issuance of any of the refunding bonds for any reason, the Successor Agency shall, nevertheless, be entitled to recover its costs incurred with respect to the refunding proceedings for the Series 2013 Bonds and the issuance of the refunding bonds from such property tax revenues pursuant to sections 34171(d) and 34183(a)(2) without reduction in its Administrative Cost Allowance.

Section 7. The Oversight Board hereby directs the Successor Agency Executive Director, or designee, to transmit to the California Department of Finance a copy of this Resolution duly executed by the Oversight Board and the accompanying documents presented to the Oversight Board.

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Section 8. This Resolution shall take effect upon the date of its adoption; provided, however, that the Successor Agency will not execute the Agreements until either these Oversight Board actions are deemed effective pursuant to the Dissolution Law or such Oversight Board actions have been approved by the Department of Finance if review of these Oversight Board actions is requested by the Department of Finance in accordance with the Dissolution Law.

PASSED, APPROVED, AND ADOPTED by San Diego Countywide Redevelopment Successor Agency Oversight Board the 20<sup>th</sup> day of August, 2020.

Approved as to Form and Legality  
By George Eiser, Countywide Oversight Board Counsel

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Chair, Oversight Board

# Resolution-No-OB-2020-021

Final Audit Report

2020-08-21

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