

RESOLUTION NO. SA-13-27

A RESOLUTION OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY AUTHORIZING THE ISSUANCE AND PRESCRIBING THE TERMS, CONDITIONS AND FORM OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY PALM AVENUE/COMMERCIAL REDEVELOPMENT PROJECT TAX ALLOCATION REFUNDING BONDS, SERIES 2013; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL INDENTURE OF TRUST AND A BOND PURCHASE AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT; APPROVING THE RETENTION OF AN UNDERWRITER; AUTHORIZING PAYMENT OF COSTS OF ISSUANCE; AND AUTHORIZING AND APPROVING NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Imperial Beach Redevelopment Agency (the "Original Agency") is obligated to pay the original amount of \$22,765,000 under two Loan Agreements (the "2003 Loan Agreements") entered into in 2003 in connection with the issuance by the Imperial Beach Financing Authority, a joint powers authority created by and among the Original Agency and the City of Imperial Beach (the "City"), of its \$22,765,000 original amount of Tax Allocation Revenue Bonds, 2003 Series A (Palm Avenue/Commercial Redevelopment Project) (the "Authority Bonds") for the purpose of financing programs, projects and activities relating to the Original Agency's Palm Avenue/Commercial Redevelopment Project; payments due on the loan obligations are payable primarily from tax increment revenues derived from the Original Agency's Palm Avenue/Commercial Redevelopment Project (the "Redevelopment Project"); and

WHEREAS, by implementation of California Assembly Bill No. X1 26 signed by the Governor of the State of California on June 28, 2011 ("AB 26"), which amended provisions of the California Community Redevelopment Law (found at California Health and Safety Code Section 33000, *et seq.*, herein, the "Redevelopment Law") and added Part 1.8 and Part 1.85 to Division 24 of the California Health and Safety Code, and due to the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, the Original Agency was dissolved on February 1, 2012 in accordance with AB 26; 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 Original Agency upon the dissolution of the Original Agency under AB 26 (the "Successor Agency"); and

WHEREAS, on February 1, 2012, the Successor Agency, in accordance with and pursuant to AB 26 and by operation of law, assumed the duties and obligations set forth in AB 26 for the Original Agency, including, without limitation, the obligations of the Original Agency under the 2003 Loan Agreements, the Series 2010 Indenture (described below) and related documents to which the Original Agency was a party; 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, AB 26 was amended by California Assembly Bill No. 1484, which was signed by the Governor of the State of California on June 27, 2012 ("AB 1484"), (AB 26 and AB 1484 are referred to collectively herein as the "Dissolution Act"); and

WHEREAS, AB 1484, among other things, amended the California Health and Safety Code to authorize 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 (the "Refunding Law") for the purpose of achieving debt service savings; and

WHEREAS, the Dissolution Act, at Section 34177.5 of the California Health and Safety Code, authorizes the Successor Agency to undertake proceedings for the refunding of outstanding bonds and other obligations of the Original Agency, subject to the conditions precedent contained in Section 34177.5 and the approval of the Successor Agency's Oversight Board; and

WHEREAS, the Successor Agency has determined that it is in the best financial interests of the Successor Agency to refund, at this time, the 2003 Loan Agreements; and

WHEREAS, on June 12, 2013, the Successor Agency's Oversight Board adopted Resolution No. OB-13-18, directing the Successor Agency to commence the refinancing or refunding of the 2003 Loan Agreements and authorizing the Successor Agency to recover all costs associated with said bond refinancing or refunding. The California Department of Finance (the "Department of Finance") has approved Resolution No. OB-13-18; and

WHEREAS, the Original Agency has issued its \$21,595,000 aggregate principal amount of Palm Avenue/Commercial Redevelopment Project Tax Allocation Bonds, 2010 Tax Allocation Bonds (the "Series 2010 Bonds") for the purpose of financing redevelopment activities with respect to the Redevelopment Project, pursuant to an Indenture of Trust, dated as of November 1, 2010, by and between the Original Agency and Wells Fargo Bank, N.A., as Trustee (the "Series 2010 Indenture"); and

WHEREAS, the Successor Agency intends to refund the 2003 Loan Agreements by issuing an additional series of bonds designated as the "Imperial Beach Redevelopment Agency Successor Agency Palm Avenue/Commercial Redevelopment Project Tax Allocation Refunding Bonds, Series 2013" (as further described below, the "Bonds") under and pursuant to the Refunding Law, the Redevelopment Law, the Dissolution Act, the Series 2010 Indenture, and the Constitution and other applicable laws of the State of California, and under, pursuant to and subject to the conditions and limitations of Section 34177.5 of the California Health and Safety Code, and such Bonds will be issued on parity with the Series 2010 Bonds, under and pursuant to the provisions of the Series 2010 Indenture.

NOW, THEREFORE, BE IT RESOLVED by the Imperial Beach Redevelopment Agency Successor Agency, as follows:

Section 1. Conditions Precedent. Except as provided in Section 16 below, and provided that the issuance of the Bonds shall meet and be limited by the requirements of Section 34177.5(a) of the California Health and Safety Code, all conditions, things and acts

required by law to exist, to happen and to be performed precedent to and in connection with the issuance by the Successor Agency of the Bonds exist, have happened and been performed in due time, form and manner, in accordance with applicable law, and the Successor Agency is now authorized pursuant to the Refunding Law at Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, in accordance with the Dissolution Act at Section 34177.5 of the California Health and Safety Code, to issue the Bonds in the manner and form provided in this Resolution.

Section 2. First Supplemental Indenture. The First Supplemental Indenture of Trust (the "First Supplement"), between the Successor Agency and the Trustee, in substantially the form on file with the Secretary of the Successor Agency (the "Secretary"), is hereby approved and adopted. The Executive Director of the Successor Agency (the "Executive Director") or the Finance Officer of the Successor Agency (each an "Authorized Officer"), each acting alone, or the designee of either, is hereby authorized, and directed to execute and the Secretary is hereby authorized to attest to, the First Supplement in substantially the form presented to the Successor Agency Board of Directors (the "Board") and on file with the Secretary, with such changes, additions, amendments or modifications (including but not limited to changes, additions, amendments or modifications necessary to obtain ratings on the Bonds, or a municipal bond insurance commitment or reserve fund surety bond for the Bonds) that are approved by an Authorized Officer, in consultation with legal counsel to the Successor Agency ("Counsel"), as being in the interest of the Successor Agency, such approval to be conclusively evidenced by said execution. The Successor Agency hereby agrees to comply with, or cause to be complied with, all covenants of the Successor Agency set forth in the Series 2010 Indenture and the First Supplement.

Section 3. Issuance of Bonds. The Board of the Successor Agency hereby authorizes the issuance of the Bonds, which shall be designated the "Imperial Beach Redevelopment Agency Successor Agency Palm Avenue/Commercial Redevelopment Project Tax Allocation Refunding Bonds, Series 2013" in an aggregate principal amount not in excess of the amount required to defease the 2003 Loan Agreements, to establish customary debt service reserves, and to pay related costs of issuance of the Bonds, provided that the total interest cost to maturity on the Bonds plus the principal amount of the Bonds shall not exceed the total remaining interest cost to maturity on the 2003 Loan Agreements plus the remaining principal of the 2003 Loan Agreements as required by Section 34177.5(a) of the California Health and Safety Code.

Section 4. Form of Bonds. The form of the Bonds, in substantially the form attached to the First Supplement, is hereby approved and adopted. Each Authorized Officer, acting alone, is hereby authorized and directed to approve and to execute the Bonds by manual or facsimile signature, and the Secretary is hereby authorized and directed to attest, by manual or facsimile signature, such signature on the Bonds, with such changes, additions, amendments or modifications made in accordance with Section 10 hereof.

Section 5. Bond Purchase Agreement. The Bonds shall be offered for purchase by an underwriter firm to be designated by an Authorized Officer, in consultation with the Successor Agency's financial advisor, pursuant to a request for proposal process, according to the terms set forth in a Purchase Agreement (the "Purchase Agreement"), by and between the Successor Agency and the underwriter, substantially in the form submitted to the Board at this meeting and on file with the Secretary. Such form Purchase Agreement is hereby approved, and an Authorized Officer, or the designee of either, is hereby authorized and directed to execute and deliver said Purchase Agreement with such changes therein as the Authorized Officer may approve, in consultation with Counsel, such approval to be conclusively evidenced

by the execution and delivery of such Purchase Agreement, provided that the aggregate principal amount of Bonds to be issued shall not exceed the amount described in Section 3 hereof, and the underwriters' discount (excluding original issue discount, if any) shall not exceed one percent (1.0%).

Section 6. Appointment of Depositories and Other Agents. The Authorized Officers, each acting alone, or the designee of either, is hereby authorized and directed to appoint from time to time one or more depositories for the Bonds, as they may deem desirable. The Authorized Officers, each acting alone, or the designee of either, is hereby also authorized and directed to appoint from time to time one or more agents, as he/she may deem necessary or desirable. To the extent permitted by applicable law, and under the supervision of an Authorized Officer, such agents may serve as paying agent, trustee or registrar for the Bonds, or financial printer or may assist the Authorized Officer in performing any or all of such functions and other duties as the Authorized Officer shall determine. Such agents shall serve under such terms and conditions, as an Authorized Officer shall determine. An Authorized Officer may remove or replace agents appointed pursuant to this Section at any time.

Section 7. Official Statement. The form of proposed preliminary official statement (the "Preliminary Official Statement"), in substantially the form presented to the Board and on file with the Secretary, is hereby approved and adopted with such changes, additions, amendments or modifications as may be made in accordance with Section 10 hereof. The Authorized Officers, acting alone, are each hereby authorized to cause the distribution of the Preliminary Official Statement for the Bonds, deemed final by the Board for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended, and the Authorized Officers are each separately authorized to execute a certificate to that effect. The Authorized Officers are each separately authorized and directed to sign a final Official Statement for the Bonds. The Authorized Officers are each hereby authorized and directed to cause to be printed and mailed to prospective purchasers of the Bonds copies of the Preliminary Official Statement and the final Official Statement.

Section 8. Payment of Costs of Issuance. The Finance Officer is hereby authorized and directed to pay, or cause to be paid on behalf of the Successor Agency, the costs of issuance associated with the Bonds and incurred in connection with the refunding of the 2003 Loan Agreements, as approved by the Successor Agency's Oversight Board and the Department of Finance pursuant to and in accordance with the Dissolution Act.

Section 9. Savings Parameters Confirmation. Prior to the delivery of the Bonds to the Underwriter, staff of the Successor Agency shall cause independent certified public accountant(s), as the verification agent with respect to the refunding proceedings, to confirm that the debt service savings as a result of the refunding of the 2003 Loan Agreements and, thereby, the refunding of the Authority Bonds will achieve debt service savings within the parameters set forth in Section 34177.5(a) of the California Health and Safety Code will be met, and if not met the issuance of the Bonds shall not proceed.

Section 10. Modification to Documents. Any Successor Agency official authorized by this Resolution to execute any document is hereby further authorized, in consultation with the Authorized Officers and Counsel, to approve and make such changes, additions, amendments or modifications to the document or documents that the Successor Agency official is authorized to execute, as may be necessary or advisable (provided that such changes, additions, amendments or modification shall not cause the issuance of bonds to fail to meet the requirements of Section 34177.5 of the California Health and Safety Code). The approval of

any change, addition, amendment or modification to any of the aforementioned documents shall be evidenced conclusively by the execution and delivery of the document in question.

Section 11. Oversight Board Approval of the Issuance of the Bonds. The Successor Agency hereby requests the Oversight Board to approve, by Resolution, the issuance of the Bonds in accordance with the terms of this Resolution and the Series 2010 Indenture, as proposed to be supplemented by the First Supplement (collectively, the "Indenture").

Section 12. Determinations by the Oversight Board. The Successor Agency hereby requests that the Oversight Board make the following determinations, by Resolution, upon which the Successor Agency will rely in its issuance of the Bonds:

(a) As provided in Resolution No. OB-13-18, the Successor Agency is authorized, as provided in Section 34177.5(f) of the California Health and Safety Code, to recover its costs related to the issuance of the Bonds from the proceeds of the Bonds, including the cost of reimbursing the Successor Agency and City for administrative staff time spent with respect to the authorization, issuance, sale and delivery of the Bonds;

(b) The application of proceeds of the Bonds by the Successor Agency to the refunding of the 2003 Loan Agreements, as well as the payment by the Successor Agency of costs of issuance of the Bonds, as provided in the Indenture and authorized by Sections 34177.5(a) and (f) of the California Health and Safety Code, shall be implemented by the Successor Agency promptly upon delivery of the Bonds to the Underwriter, notwithstanding Section 34177.3 of the California Health and Safety Code or any other provision of law to the contrary, and without any further approval of the Oversight Board, or approval of the Department of Finance, the San Diego County Auditor-Controller or any other person or entity other than the Successor Agency;

(c) The Successor Agency shall enter the amounts of the final debt service determined upon sale and delivery of the Bonds into Exhibit B—Debt Service Schedule attached to the First Supplement and the amounts so entered shall be final and conclusive upon the Oversight Board, the Department of Finance and all other interested persons and entities and the Debt Service Schedule shall not be amended except as provided in the Indenture; and

(d) The Successor Agency shall be entitled to receive its full allocation of the Administrative Cost Allowance under Sections 34171(b) and 34183(a)(3) of the California Health and Safety Code, at an amount of not less than \$250,000 per fiscal year, without any deductions with respect to continuing costs related to the Bonds, such as trustee's fees, auditing fees and fiscal consultant fees and continuing disclosure and rating agency costs (collectively, "Continuing Costs of Issuance"), and such Continuing Costs of Issuance shall be enforceable obligations payable from property tax revenues pursuant to Sections 34171(d)(1) and 34183(a)(2) of the California Health and Safety Code.

Section 13. Filing of this Resolution. The Secretary of the Successor Agency is hereby authorized and directed to file an executed copy of this Resolution with the Oversight Board and, as provided in Section 34180(j) of the California Health and Safety Code, concurrently with the San Diego County Administrative Officer, the San Diego County Auditor-Controller and the Department of Finance.

Section 14. Ratification. All actions heretofore taken by the officials, employees and agents of the Successor Agency with respect to the sale and issuance of the Bonds are hereby approved, confirmed and ratified.

Section 15. General Authority. The Authorized Officers, the Secretary or each such person's duly authorized designee and agent, and any other officials of the Successor Agency and their duly authorized designee and agents are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents including, but not limited to, a Continuing Disclosure Certificate, refunding instructions or escrow agreements required to be executed in connection with the refunding of the Series 2003 Bonds, and a letter of representation to any depository for the Bonds, and petition for a final and conclusive determination from the Department of Finance pursuant to Section 34177.5(i) of the California Health and Safety Code, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds, and to effectuate the purposes thereof and of the documents herein approved in accordance with this Resolution.

The Authorized Officers may designate in writing one or more persons to perform any act, which such persons are hereby authorized by this Resolution to perform.

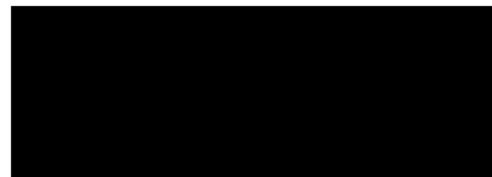
Section 16. Effect. This Resolution shall take effect immediately upon its passage; provided, however, that the Successor Agency will not execute and deliver the documents approved hereby or issue the Bonds until such execution, delivery and issuance has been approved by the Successor Agency's Oversight Board, and until either the Oversight Board action is deemed effective pursuant to the Dissolution Act or such Oversight Board action has been approved by the Department of Finance if review of the Oversight Board action is requested by the Department of Finance in accordance with the Dissolution Act.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 4th day of September 2013, by the following vote:

AYES: COUNCIL MEMBER: SPRIGGS, BILBRAY, PATTON, BRAGG, JANNEY

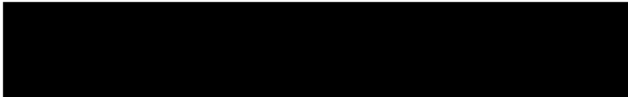
NOES: COUNCIL MEMBER:

ABSENT: COUNCIL MEMBER:



JAMES C. JANNEY, MAYOR

ATTEST:



**JACQUELINE M. HALD, MMC
CITY CLERK**