

LOAN AGREEMENT

(City of Imperial Beach Loan/Advance to Imperial Beach Redevelopment Agency Successor Agency)

This Loan Agreement (“Loan Agreement”) is made and entered into this ____ day of _____, 2025 (but see Section 4.04 for the “Effective Date”), by and between the City of Imperial Beach, a municipal corporation of the State of California (hereinafter referred to as the “City”), and the Imperial Beach Redevelopment Agency Successor Agency, a public entity, duly created, validly existing, and in good standing under the laws of the State of California (hereinafter referred to as the “Successor Agency”), individually a “Party” and collectively the “Parties”, with reference to the following facts:

RECITALS

WHEREAS, the Imperial Beach Redevelopment Agency (the “Redevelopment Agency”) was a redevelopment agency in the 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, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) (“AB 26”) was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and to the California Health and Safety Code (“H&S Code”), including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the H&S 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 AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency on February 1, 2012; and

WHEREAS, on February 1, 2012, the Redevelopment Agency was dissolved by operation of law and the Successor Agency was established pursuant to AB 26. The Successor Agency is a separate and distinct legal entity from the City, with rules and regulations that apply to its governance and operations; 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 is hereinafter referred to as the “Dissolution Law”; and

WHEREAS, in 2018, the County of San Diego Countywide Redevelopment Successor Agency Oversight Board (the “Oversight Board”) was established pursuant to the Dissolution

Law. The Oversight Board possesses fiduciary responsibilities to holders of enforceable obligations and taxing entities that benefit from distributions of property taxes and other revenues. As a part of these responsibilities, the Oversight Board reviews and approves the annual "Recognized Obligation Payment Schedule" ("ROPS") submitted by successor agencies within San Diego County for the payment of obligations, before the submittal of the ROPS to the California Department of Finance (the "DOF") for its approval; and

WHEREAS, pursuant to the Dissolution Law, the ROPS is the reporting document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations of the Successor Agency for each fiscal year. The ROPS is forward looking to the next one year; and

WHEREAS, after the approval of the ROPS by the Oversight Board and then the DOF under the Dissolution Law, the San Diego County Auditor-Controller (the "County Auditor-Controller") is responsible for ensuring that the Successor Agency receives revenues from certain property tax ("Redevelopment Property Tax Trust Fund" or "RPTTF") sufficient to meet the payment requirements of the ROPS's enforceable obligations during each fiscal year period; and

WHEREAS, the ROPS covering the 12-month fiscal year period from July 1, 2024 through June 30, 2025 ("ROPS 24-25") was duly submitted by the Successor Agency and approved by the Oversight Board and the DOF, with certain changes in the amount of RPTTF approved for allocation to the Successor Agency for payment of its enforceable obligations during the 2024-2025 Fiscal Year including payment of debt service on outstanding bonds of the Successor Agency and other obligations. In particular, as a part of the ROPS, there is a summary of cash balances, including the expenditures and excess cash during the 12-month fiscal year period from July 1, 2021 through June 30, 2022 (i.e. the ROPS 21-22 period) that becomes a prior period adjustment ("PPA") to the amount of RPTTF approved for allocation to the Successor Agency for the ROPS 24-25 period; and

WHEREAS, the PPA for ROPS 21-22 was mistakenly calculated by not including a bond payment expenditure of One Million One Hundred Seventy-Nine Thousand Five Hundred Eighty-Nine Dollars and Seventy-Eight Cents (\$1,179,589.78) made during a bond refunding process in Fiscal Year 2021-2022 and, as a result, reduced the amount of RPTTF approved to be paid to the Successor Agency for the Successor Agency's ROPS 24-25 enforceable obligations by a total PPA amount of One Million One Hundred Sixty-Four Thousand Three Hundred Sixty Dollars (\$1,164,360). In addition, there were other inaccuracies in the calculations of funds that the DOF had presumed were available to pay for the Successor Agency's ROPS 24-25 enforceable obligations. Therefore, DOF reduced the amount of RPTTF approved for distribution in the Fiscal Year 2024-2025 to pay for the Successor Agency's ROPS 24-25 enforceable obligations. As a result, the RPTTF that has been received on June 1, 2024, and that will be received on January 2, 2025, to pay enforceable obligations from July 1, 2024, through June 30, 2025, is insufficient to pay all approved ROPS 24-25 enforceable obligations, including certain tax allocation bond debt and reserve payments that are due by the Successor Agency in May/June 2025, administrative costs, and other obligations; and

WHEREAS, the County-Auditor Controller has concurred that the PPA for ROPS 21-22 was mistakenly calculated and has since agreed in writing to correct the RPTTF to be distributed to the Successor Agency. However, when these inaccuracies were discovered, it

was too late for the DOF to re-issue its funding determination approval letter for ROPS 24-25 to correct the discrepancy; and

WHEREAS, pursuant to H&S Code Section 34173(h) of the Dissolution Law, the City is authorized, in the City's discretion, to loan or grant funds to the Successor Agency for the payment of administrative costs, enforceable obligations, or project-related expenses that qualify as an enforceable obligation, and only to the extent that the Successor Agency receives an insufficient distribution from the RPTTF or other approved sources of funding are insufficient to pay approved enforceable obligations in the ROPS period. H&S Code Section 34173(h) further requires that the receipt and use of these loan or grant funds shall be reflected on the Successor Agency's ROPS or the administrative budget, and therefore are subject to the oversight and approval of the Oversight Board. Once approved by the Oversight Board, an enforceable obligation shall be deemed to be created for the repayment of those loans. The interest payable on any loan created pursuant to H&S Code Section 34173(h) shall be calculated on a fixed annual simple basis and applied to the outstanding principal amount until fully paid, at a rate not to exceed the most recently published interest rate earned by funds deposited into the Local Agency Investment Fund during the previous fiscal quarter. Repayment of loans created under H&S Code Section 34173(h) shall be applied first to principal, and second to interest, and shall be subordinate to other approved enforceable obligations, and shall be repaid to the extent RPTTF allocated to the Successor Agency is available after fulfilling other enforceable obligations approved in the Successor Agency's ROPS; and

WHEREAS, pursuant to H&S Code Section 34177.3(b), the Successor Agency may create enforceable obligations to conduct the work of winding down the former Redevelopment Agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance; and

WHEREAS, to enable the Successor Agency to meet its fiduciary responsibilities to holders of enforceable obligations, including certain tax allocation bond debt and reserve payments that are due by the Successor Agency in May/June 2025, and to have adequate funds for administration costs and other obligations, the City desires to loan to the Successor Agency an amount not to exceed One Million Three Hundred Fifteen Thousand Nine Hundred Twenty Dollars (\$1,315,920); and

WHEREAS, subject to approval by the Oversight Board, the Successor Agency may enter into this Loan Agreement with the City pursuant to the authority granted by H&S Code Sections 33220, 33610, 34173(h), 34177.3 and 34180(h); and

WHEREAS, the City and the Successor Agency have determined that entering into this Loan Agreement is in the best interests of the City and the Successor Agency.

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

ARTICLE I.

INTRODUCTORY PROVISIONS

Section 1.01 Recitals. The recitals above are an integral part of this Loan Agreement and set forth the intentions of the Parties and the premises on which the Parties have decided to enter into this Loan Agreement.

ARTICLE II.

LOAN PROVISIONS

Section 2.01 Loan. The City hereby agrees to lend to the Successor Agency the principal amount of One Million Three Hundred Fifteen Thousand Nine Hundred Twenty Dollars (\$1,315,920) (“Loan”) for the purposes set forth in Section 2.03.

Section 2.02 Interest. Interest on the Loan shall accrue as of the Effective Date, continuing until such time as the Loan is repaid in full, at a rate equal to the most recently published interest rate earned by funds on deposit in the Local Agency Investment Fund during the previous fiscal quarter, calculated on a fixed annual simple basis, compounded annually.

Section 2.03 Use of Loan Funds. The Successor Agency shall use the Loan for the purpose of paying the approved enforceable obligations, including administrative costs, and up to the amounts as set forth in the “Schedule of Obligations” attached hereto as Exhibit A and incorporated herein by this reference.

Section 2.04 Condition to Disbursement. The City shall have no obligation to disburse the Loan funds to the Successor Agency until all of the following are met: (a) the Oversight Board approves this Loan Agreement, (b) the DOF approves this Loan Agreement or the Loan Agreement is otherwise deemed approved pursuant to the Dissolution Law or other State law, and (c) the Loan is included on the Successor Agency’s ROPS and such ROPS is approved by the Oversight Board and the DOF, respectively.

Section 2.05 Repayment of Loan.

(a) The Loan is an enforceable obligation of the Successor Agency repayable in accordance with the repayment schedule set forth in the “Repayment Schedule” attached hereto as Exhibit B and incorporated herein by this reference. The Loan shall be repayable each year solely from the RPTTF maintained by the County Auditor-Controller and paid to the Successor Agency on January 2 and June 1 of each year for the purpose of paying enforceable obligations of the Successor Agency during that particular ROPS period. The repayment of the Loan is not subject to the restrictions set forth in H&S Code Sections 34176(e)(6)(B) or 34191.4(b). The Loan will be repaid from first available RPTTF funds not required for other enforceable obligations.

(b) The Loan shall be set forth as an enforceable obligation of the Successor Agency on the ROPS 25-26 covering the period from July 1, 2025 through June 30, 2026, and on every ROPS thereafter until paid in full. Each payment described on the Repayment Schedule shall be due and payable in full from RPTTF on deposit in the Successor Agency’s Redevelopment Obligation Retirement Fund (“RORF”) beginning with the June 1, 2025 RPTTF payment to the RORF by the County Auditor-Controller for payment of enforceable obligations for the period of July 1, 2025 through December 31, 2025. However, should the Successor Agency receive insufficient funds from the RPTTF to pay all costs shown on the ROPS 25-26

and each ROPS thereafter, then the amount due and payable on the Loan as set forth in the Repayment Schedule shall equal the amount deposited into the RORF less all other costs shown on the ROPS 25-26 and each ROPS thereafter, and the unpaid balance of any principal and interest for such ROPS period shall be due and payable in full on the next ROPS.

(c) The procedure described in subsection (b) of this Section shall continue to be followed for each ROPS until the principal and interest due on the Loan are paid in full. Any remaining principal and interest due on the Loan as set forth in the Repayment Schedule shall continue to be shown as an enforceable obligation on each successive ROPS until the Successor Agency has received sufficient RPTTF funds to pay all principal and interest due on the Loan.

(d) All Loan repayments shall first be used to reduce the principal balance of the Loan and second to pay all accrued interest.

(e) The indebtedness of the Successor Agency under this Loan Agreement shall be subordinate to the rights of the holder or holders of any existing bonds, notes or other instruments of indebtedness (all referred to herein as "indebtedness") of the Successor Agency, including without limitation any pledge of tax increment revenues to pay any portion of the principal (and otherwise comply with the obligations and covenants) of any bond or bonds issued or sold by the former Redevelopment Agency or refinanced or refunded by the Successor Agency.

Section 2.06 Optional Prepayment of the Loan. The Successor Agency shall have the right to prepay the unpaid principal and accrued interest of the Loan, or portion thereof, at any time.

Section 2.07 Books and Accounts; Financial Statements. The Successor Agency will keep, or cause to be kept, proper books of record and accounts showing the use of the Loan funds, interest due on the Loan, Loan repayments, and principal and interest outstanding.

ARTICLE III.

DEFAULT AND REMEDIES

Section 3.01 Event of Default. Failure by the Successor Agency to pay the principal or interest on the Loan when due and payable shall constitute a default (referred to herein as a "Default").

Section 3.02 No Waiver. A waiver of any Default by the City shall not affect any subsequent Default or impair any rights or remedies on the subsequent default.

Section 3.03 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

ARTICLE IV.

MISCELLANEOUS

Section 4.01 No Merger. In entering into this Loan Agreement, the City is acting in its capacity as a general law city, while the Successor Agency is acting in its capacity as the successor to the former Redevelopment Agency; and both the City and the Successor Agency are acting pursuant to the specific authority granted by the Oversight Board and by H&S Code Sections 33220, 33610, 34173(h), 34177.3 and 34180(h) authorizing agreements between the City and the Successor Agency. In consequence, the Parties to this Loan Agreement are not merged.

Section 4.02 Successor is Deemed Included in All References to Predecessor. Whenever in this Loan Agreement either the Successor Agency or the City is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Loan Agreement contained by or on behalf of the Successor Agency or the City shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 4.03 Amendment. This Loan Agreement may be amended by the Parties hereto but only by a written instrument signed by both Parties and with the approval of the Oversight Board.

Section 4.04 Effective Date. This Loan Agreement shall take effect upon approval by the Oversight Board and, following that approval, at the time and in the manner prescribed in H&S Code Section 34179(h) of the Dissolution Law with respect to the DOF's right to review (the "Effective Date").

Section 4.05 Severability. If any Section, paragraph, sentence, clause or phrase of this Loan Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Loan Agreement. The City and the Successor Agency hereby declare that they would have adopted this Loan Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the Loan irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Loan Agreement may be held illegal, invalid or unenforceable.

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[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the City of Imperial Beach and the Imperial Beach Redevelopment Agency Successor Agency have caused this Loan Agreement to be signed by their respective officers as of the day and year first above written.

CITY:

CITY OF IMPERIAL BEACH,
a California municipal corporation

Tyler Foltz, City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jennifer M. Lyon, City Attorney

Lily Flyte, Finance Director

KANE, BALLMER & BERKMAN
City Special Counsel

Kendall D. Levan, Esq.

SUCCESSOR AGENCY:

IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY,
a California public entity

Tyler Foltz, Executive Director

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jennifer M. Lyon, General Counsel

Lily Flyte, Finance Director

KANE, BALLMER & BERKMAN
Successor Agency Special Counsel

Kendall D. Levan, Esq.

EXHIBIT A

SCHEDULE OF OBLIGATIONS

| OBLIGATION | AMOUNT OF LOAN/ADVANCE |
|---|---------------------------|
| All enforceable obligations, including administrative costs, listed on the approved ROPS 24-25 for which the Successor Agency has insufficient funds to adequately pay, including, but not limited to, the May/June 2025 bond debt service payment in the amount of \$1,155,100 on the 2022 Tax Allocation Refunding Bonds (refunded the 2013 Series TARBs) and the May/June 2025 reserve required by the 2022 Tax Allocation Refunding Bonds in the amount of \$181,000. | \$1,315,920 |
| TOTAL | \$1,315,920 |

EXHIBIT B

REPAYMENT SCHEDULE

| <u>FISCAL YEAR</u> | <u>REPAYMENT AMOUNT</u> |
|--|--|
| FY 2025-2026 | Principal balance of the Loan (\$1,315,920) plus accrued interest |
| FY 2026-2027, AND EACH FISCAL YEAR THEREAFTER | Any remaining principal balance of the Loan plus accrued interest |