

RESOLUTION NO. 2017-01

RESOLUTION OF THE OVERSIGHT BOARD TO THE INLAND VALLEY DEVELOPMENT AGENCY IN ITS CAPACITY AS SUCCESSOR AGENCY TO THE INLAND VALLEY DEVELOPMENT AGENCY (IVDA SA) APPROVING THE RECOGNIZED OBLIGATIONS PAYMENT SCHEDULE (ROPS) FOR THE PERIOD JULY 1, 2017 THROUGH JUNE 30, 2018 (ROPS 17-18)

WHEREAS, the Inland Valley Development Agency (the "IVDA") is a joint powers authority created pursuant to Government Code Sections 6500, et seq., established in January 1990 pursuant to that certain Amended Joint Exercise of Powers Agreement (Inland Valley Development Agency), dated as of February 12, 1990, by and among the City of San Bernardino, the City of Colton, the City of Loma Linda and the County of San Bernardino, as amended (the "Agreement"); and

WHEREAS, pursuant to the provisions of ABx1 26, effective June 29, 2011, and as upheld by the California Supreme Court in *CRA v. Matosantos*, redevelopment agencies were dissolved effective February 1, 2012; and

WHEREAS, before dissolution, the entity which formed a redevelopment agency could designate itself as the successor agency thereto; and

WHEREAS, on January 25, 2012, the IVDA Board adopted Resolution No. 2012-03, declaring pursuant to Health and Safety Code Section 34173 to serve as the successor agency to the IVDA; and

WHEREAS, the Oversight Board for the IVDA acting as the successor agency to the IVDA commenced meeting on or about April, 2012; and

WHEREAS, certain successor agency actions are reviewed and approved by an Oversight Board composed of representatives of taxing agencies within the jurisdiction of the successor agency, which actions specifically include the review and approval of the Recognized Obligations Payment Schedule (ROPS) in advance for each period for which former tax increment now in the Redevelopment Property Tax Trust Fund (RPTTF) will be distributed; and

WHEREAS, effective September 22, 2015, the Dissolution law was amended by SB 107, which now provides for an annual ROPS, for which the Department of Finance ("DOF") also has issued guidance; and

WHEREAS, IVDA SA staff previously prepared and submitted the first annual ROPS, ROPS 16-17, in the form required by the DOF pursuant to the recently adopted provisions of SB 107; and

WHEREAS, IVDA SA staff has now prepared the attached ROPS, ROPS 17-18, incorporated as **Exhibit "A"** to this Resolution, in the form required by the DOF; and

WHEREAS, as required, the Oversight Board for the IVDA SA has reviewed and approved ROPS 17-18 before February 1, 2017; and

WHEREAS, based upon evidence provided by staff, the Oversight Board makes the following specific findings that the items shown on the ROPS attached as Exhibit A are necessary for the payment of enforceable obligations:

1. Airport Operations (Line Item No. 13 states that the enforceable obligation has been denied; however, this is inaccurate. As shown by the ROPS approval letter from DOF dated May 17, 2016 and November 15, 2016 (ROPS), DOF actually approved the enforceable obligation but funded it at zero. IVDA contests this additional error.

- A. Successor Agency staff has advised that a continuing failure to fund the airport operations (Line Item No. 13 on the ROPS) will result in a default of Military Base Reuse Obligations and creates significant and immediate impacts to SBIAA's ability to maintain core support of commercially certificated U.S Department of Transportation, Federal Aviation Administration (FAA) Part-139 airport services including operations, maintenance, navigational aids, air traffic control tower, and security services necessary to comply with Federally-designated public airport safety requirements; and will further result in a continuing default of the settlement agreement with SBCERA, as set out below, as employer pension liability payments are part of required and eligible airport operations payments.
- B. Additionally as to the Military Based Reuse and Financing Agreement, aka Airport Operations, Items 96 and 97, Line 96 sets out the full amount of the enforceable obligation going forward. Line 97 sets out the shortfall to IVDA SA from improper refusal to fund airport operations, and includes the SBCERA employer pension liability amounts, explained below.
- C. As presented by staff to the Oversight Board, DOF repeatedly has reviewed and approved Airport Operations payments as enforceable obligations. The Successor Agency and its obligees relied upon such approvals and funding. DOF cannot and should not now claim such past funding was in error.

2. SBCERA Pension Settlement Payments: As to Items 97, 98 and 99, (SBCERA payment) this Board reaffirms the approval of Resolution No. 2016-03, a copy of which is attached as **Exhibit "B"**, which provides specific approval and support for the SBCERA settlement agreement payment for the unfunded liability.

A. As presented by staff to the Oversight Board, DOF repeatedly has approved payments pursuant to the terms and schedule in the settlement agreement with SBCERA for unfunded liability for employees of the Successor Agency and those who also provided services to the Successor Agency.

B. DOF's continuing denial of IVDA's request for payment from the RPTTF to SBCERA has subjected IVDA to litigation by SBCERA to enforce the Settlement Agreement, thereby creating additional costs.

3. JPA Contributions: As to Items 52, 59, 76, 77, 78, 79, 81, 85, 86, 87, 92, 93, 94, 95, 102, 103 - IVDA continues to request the payment of JPA Contributions or, alternatively, confirmation by DOF to the San Bernardino County Auditor Controller that DOF approves such payments by the Auditor-Controller in whatever form they may be described, i.e. as pass-through payments or enforceable obligations. Such payments constitute member entity contributions pursuant to the Joint Power Agreement and Cooperation Agreement and were made from non-RDA funds of the member entities prior to adoption of a Redevelopment Plan. IVDA continues to request such payments for the reasons set out in past Meet and Confers with DOF.

4. Shortfall and True-up Payment: As to Items 53, 72, 82, 89, 100, 101 - IVDA continues to request payment of the Shortfall and True-up Payment amounts. IVDA has repeatedly provided financial documentation to DOF detailing how approved enforceable obligations were underfunded by DOF from ROPS 15-16A through ROPS 16-17. In addition, IVDA has provided DOF with documentation showing that the July 1, 2012 True-up Payment was timely paid pursuant to Dissolution Law but was not warranted or required. IVDA seeks reimbursement of these amounts

WHEREAS, the Oversight Board makes a further finding that the inclusion of all previously disapproved items on this ROPS is necessary for the continuing exhaustion of administrative remedies; and

WHEREAS, upon approval by the Oversight Board, a copy of the ROPS 17-18 shall be submitted by February 1, 2017 in the manner required by Health & Safety Code Section 34180(j) to the County Auditor-Controller, the State Controller and the Department of Finance and posted on the successor agency's website.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD TO THE INLAND VALLEY DEVELOPMENT AGENCY IN ITS CAPACITY AS SUCCESSOR AGENCY TO THE INLAND VALLEY DEVELOPMENT AGENCY, AS FOLLOWS:

SECTION 1. The above Recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Approval of the Recognized Obligations Payment Schedule for the Period July 1, 2017 through June 30, 2018 for the Inland Valley Development Agency, Successor Agency. The Oversight Board of the IVDA SA, at a meeting held January 26, 2017, hereby approves the Recognized Obligations Payment Schedule for the period July 1, 2017 through June 30, 2018 (ROPS 17-18), and authorizes the submission of such ROPS 17-18 to the State of California Department of Finance and other appropriate government agencies.

SECTION 3. This Resolution shall take effect upon the date of its adoption.

PASSED, APPROVED AND ADOPTED this 26th day of January 2017.



Michael Burrows, Vice Chairman
Oversight Board of the Inland Valley Development
Agency, acting as the Successor Agency to the
Inland Valley Development Agency

(SEAL)

Attest:


Jennifer Farris, Clerk of the Oversight Board
of the Inland Valley Development Agency,
acting as the Successor Agency to the
Inland Valley Development Agency

I, Jennifer Farris, Clerk of the Oversight Board of the Inland Valley Development Agency, acting as the Successor Agency to the Inland Valley Development Agency do hereby certify that the foregoing Resolution No. 2017-01 was duly and regularly passed and adopted by the Oversight Board of the Inland Valley Development Agency acting as Successor Agency at a special meeting thereof held on the 26th day of January 2017 and that the foregoing is a full, true and correct copy of said Resolution and has not been amended or repealed.

(SEAL)

Attest:



Jennifer Farris, Clerk of the Oversight Board
of the Inland Valley Development Agency,
acting as the Successor Agency to the
Inland Valley Development Agency

EXHIBIT A

**RECOGNIZED OBLIGATIONS PAYMENT SCHEDULE
FOR THE PERIOD
JULY 1, 2017 THROUGH JUNE 30, 2018 (ROPS 17-18)**

Recognized Obligation Payment Schedule (ROPS 17-18) - Summary

Filed for the July 1, 2017 through June 30, 2018 Period

Successor Agency: Inland Valley
 County: San Bernardino

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	17-18A Total (July - December)	17-18B Total (January - June)	ROPS 17-18 Total
A Enforceable Obligations Funded as Follows (B+C+D):	\$ -	\$ -	\$ -
B Bond Proceeds	-	-	-
C Reserve Balance	-	-	-
D Other Funds	-	-	-
E Redevelopment Property Tax Trust Fund (RPTTF) (F+G):	\$ 35,324,458	\$ 20,129,298	\$ 55,453,756
F RPTTF	35,324,458	20,129,298	55,453,756
G Administrative RPTTF	-	-	-
H Current Period Enforceable Obligations (A+E):	\$ 35,324,458	\$ 20,129,298	\$ 55,453,756

Certification of Oversight Board Chairman:
 Pursuant to Section 34177 (o) of the Health and Safety code, I hereby
 certify that the above is a true and accurate Recognized Obligation
 Payment Schedule for the above named successor agency.

Michael Burrows Vice Chair / Executive Director
 Name Title
 /s/  1/31/17
 Signature Date

Inland Valley Recognized Obligation Payment Schedule (ROPS 17-18) - Notes July 1, 2017 through June 30, 2018

Item #	Notes/Comments
13	Pursuant to 1990 JPA Agreement, 1992 Settlement Agreement, and 2011 Military Base Reuse and Airport Financing Agreement
19	Pursuant to Settlement Agreement with SBCERA
58	Pursuant to 6/4/07 agreement with the City of San Bernardino RDA affecting property in the IVDA Project Area; Approved previously and again on ROPS 16-17
96	Pursuant to 1990 JPA Agreement, 1992 Settlement Agreement, and 2011 Military Base Reuse and Airport Financing Agreement
97	Pursuant to 1990 JPA Agreement, 1992 Settlement Agreement, and 2011 Military Base Reuse and Airport Financing Agreement and Settlement Agreement with SBCERA.
98	Pursuant to Settlement Agreement with SBCERA
99	Pursuant to Settlement Agreement with SBCERA
100	During the ROPS 15-16A review, DOF staff suggested that this item be considered separately; however, there was no resolution reached as to how to reconcile this payment. Amounts still remain outstanding.
101	Deficiency in RPTTF paid for approved enforceable obligations in ROPS 15-16A through 15-16B
102	Pursuant to 1990 Military Base Reuse Joint Powers Agreement, per AB 419 and Public Law 100-526
103	Pursuant to 1990 Cooperation Agreement with SBVMWD

EXHIBIT B

RESOLUTION 2016-03

**RESOLUTION OF THE OVERSIGHT BOARD TO THE INLAND VALLEY
DEVELOPMENT AGENCY IN ITS CAPACITY AS SUCCESSOR AGENCY TO THE
INLAND VALLEY DEVELOPMENT AGENCY (IVDA) MAKING FINDINGS
REGARDING THE PAYMENT OF RETIREMENT OBLIGATIONS TO THE SAN
BERNARDINO COUNTY EMPLOYEES RETIREMENT ASSOCIATION (SBCERA)**

RESOLUTION NO. 2016-03

**RESOLUTION OF THE OVERSIGHT BOARD TO THE
INLAND VALLEY DEVELOPMENT AGENCY IN ITS
CAPACITY AS SUCCESSOR AGENCY TO THE INLAND
VALLEY DEVELOPMENT AGENCY (IVDA) MAKING
FINDINGS REGARDING THE PAYMENT OF RETIREMENT
OBLIGATIONS TO THE SAN BERNARDINO COUNTY
EMPLOYEES RETIREMENT ASSOCIATION (SBCERA)**

WHEREAS, the Inland Valley Development Agency (the "IVDA") is a joint powers authority created pursuant to Government Code Sections 6500, et seq., established in January 1990 pursuant to that certain Amended Joint Exercise of Powers Agreement (Inland Valley Development Agency), dated as of February 12, 1990, by and among the City of San Bernardino, the City of Colton, the City of Loma Linda and the County of San Bernardino, as amended (the "Agreement"); and

WHEREAS, pursuant to the provisions of ABx1 26, effective June 29, 2011, and as upheld by the California Supreme Court in *CRA v. Matosantos*, redevelopment agencies were dissolved effective February 1, 2012; and

WHEREAS, before the dissolution of redevelopment agencies, the entity which formed a redevelopment agency could designate itself as the successor agency thereto; and

WHEREAS, on January 25, 2012, the IVDA Board adopted Resolution No. 2012-03, declaring pursuant to Health and Safety Code Section 34173 to serve as the successor agency to the IVDA, and to serve as the successor housing agency, should the IVDA be determined to be a "redevelopment agency;" and

WHEREAS, the Oversight Board for the IVDA acting as the successor agency to the IVDA commenced meeting on or about April, 2012; and

WHEREAS, certain successor agency actions are reviewed and approved by an Oversight Board composed of representatives of taxing agencies within the jurisdiction of the successor agency in advance of periods in which former tax increment funds now in the Redevelopment Property Tax Trust Fund (RPTTF) will be distributed; and

WHEREAS, effective September 22, 2015, the Dissolution law was amended by SB 107, which now provides for an annual ROPS, for which the Department of Finance also has issued guidance; and

WHEREAS, the IVDA, in exercise of its Federal and State redevelopment agency powers previously provided services utilizing employees of both the IVDA and the San Bernardino International Airport Authority (SBIAA) that were members of the San Bernardino County Employees Retirement Association (SBCERA) under separate contracts; and

WHEREAS, after redevelopment dissolution, IVDA as the Successor Agency determined to withdraw from SBCERA to address employee costs in light of the dissolution; and

WHEREAS, such withdrawal results in an unfunded liability under the legal provisions governing a 1937 Act retirement system such as SBCERA; and

WHEREAS, in negotiating the payment of such unfunded liability, IVDA and SBCERA addressed unfunded liability costs for both IVDA employees and SBIAA employees performing services under contract with SBCERA as well as payment through the ROPS process; and

WHEREAS, the dissolution law provides in pertinent part in Health & Safety Code Section 34177(d)(1)(C), regarding the definition of "enforceable obligations:"

(C) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law..... or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement. Costs incurred to fulfill collective bargaining agreements for layoffs or terminations of city employees who performed work directly on behalf of the former redevelopment agency shall be considered enforceable obligations payable from property tax funds...

WHEREAS, based upon this authority, IVDA on behalf of itself and SBIAA reached a settlement with SBCERA that required payment over time of the combined unfunded liability for those agencies; and

WHEREAS, on ROPS 13-14A, as specifically approved by this Oversight Board, IVDA timely submitted to DOF the Transition Cost/Retirement Obligations in the total amount of \$8 million with a ROPS period request for \$1.4 million representing the unfunded pension liability of IVDA with sufficient supporting documentation to justify the expenditure as an enforceable obligation, which entry on the ROPS was specifically reviewed and approved by this Oversight Board; and

WHEREAS, after an initial denial, DOF and IVDA engaged in the Meet and Confer process, which resulted in DOF recognizing these unfunded pension liabilities as enforceable obligations and further authorized payment from the RFTTP. In so doing, the DOF stated in its May 17, 2013 letter to IVDA as follows:

Item No. 19 – Transition Cost/Retirement Obligations in the amount of \$8 million. Finance no longer denies this item. Finance originally denied this item because information to support this expense was not yet available. The Agency [IVDA] requested \$1.4 million of unfunded pension liability on this ROPS. Although this item is considered an enforceable obligation, Finance has determined that the amount requested is excessive for a single ROPS period. A reasonable payment schedule for this \$1.4 million in unfunded pension liability allocated over five years results in ten bi-annual payments of \$801,098 and will cause the least amount of disruption to the taxing entities. Therefore, \$801,098 of unfunded pension obligation is an enforceable obligation payable on ROPS 13-14A. The remaining balance of \$602,096 is not an enforceable obligation at this time, and should continue to be placed on future ROPS until the obligation is retired.

WHEREAS, DOF determined that the unfunded pension liability was (1) an enforceable obligation; (2) that bi-annual payments in the amount of \$801,098 for a period of five years was the appropriate method to discharge the entirety of the enforceable obligation; and (3) that the unfunded pension liability “should continue to be placed on future ROPS until the obligation is retired;” and

WHEREAS, in reliance on DOF’s May 17, 2013 determination, IVDA (on behalf of itself and SBIAA) and SBCERA entered into a settlement agreement dated on or about September 16, 2013, wherein IVDA settled potential litigation over the unfunded pension liability. (“SBCERA Settlement Agreement” attached as Exhibit A). The settlement agreement expressly noted DOF’s approval of the unfunded pension liability as an enforceable obligation under the Dissolution Law and specifically approval of the five year, bi-annual payment schedule of \$801,098; and

WHEREAS, for the ROPS period of January 1, 2014 through June 30, 2014 (ROPS 13-14B), in reliance on the same determination this Oversight Board specifically approved the SBCERA Settlement Agreement in the form attached as Exhibit “A” approved its placement on the ROPS as an enforceable obligation, which was approved by DOF in the amount of \$801,098 for a six month period; and

WHEREAS, the same approval by the Oversight Board occurred for the ROPS periods of July 1, 2014 through December 31, 2014 (ROPS 14-15A), January 1, 2015 through June 30, 2015 (ROPS 14-15B), and July 1, 2015 through December 31, 2015 (ROPS 15-16A) and January 1, 2016 through June 30, 2016 (ROPS 15-16B).

WHEREAS, on or about January 29, 2016, IVDA submitted to DOF, a timely ROPS for the period of July 1, 2016 through June 30, 2017 (ROPS 16-17). On the schedule, IVDA included, like it had done on all preceding six ROPS submissions, Item No. 19 – Transition Cost/Retirement Obligations arising out of the SBCERA Settlement Agreement that resolved the unfunded pension liability. Despite submission of the same documentation, and after Meet and Confer and repeated other contacts, DOF denied payment to SBCERA on the basis that SBIAA employees should not be included in the unfunded liability amount; and

WHEREAS, this Oversight Board specifically approved the Agreement with SBCERA, attached as Exhibit “A”, to provide for the payment of the combined unfunded liabilities for employees who worked for IVDA in exercise of its redevelopment powers, payable over a 5-year time period, which approval was then approved by DOF; and

WHEREAS, DOF’s continuing denial of IVDA’s request for payment of the SBCERA unfunded liability violates the SBCERA Agreement and has caused SBCERA to provide a Notice of Default to IVDA.

NOW, THEREFORE, the Oversight Board finds and resolves as follows:

1. The Recitals set out above are true and correct.
2. The Oversight Board reiterates and reminds DOF of its approval of the SBCERA Agreement, in reliance on terms and conditions approved by DOF, and as reflected on the ROPS’ approved by the Oversight Board.
3. Pursuant to its duty to taxing entities, the Oversight Board reminds DOF that a default in payment may result in increased costs to the Successor Agency and thus could impact upon the taxing entities.

PASSED, APPROVED AND ADOPTED this 27th day of September 2016.



Douglas Headrick, Chairman
Oversight Board of the Inland Valley
Development Agency, acting as the
Successor Agency to the Inland Valley
Development Agency

(SEAL)

Attest:


Jennifer Farris, Clerk of the Oversight Board
of the Inland Valley Development Agency,
acting as the Successor Agency to the
Inland Valley Development Agency

I, Jennifer Farris, Clerk of the Oversight Board of the Inland Valley Development Agency, acting as the Successor Agency to the Inland Valley Development Agency do hereby certify that the foregoing Resolution No. 2016-03 was duly and regularly passed and adopted by the Oversight Board of the Inland Valley Development Agency acting as Successor Agency at a regular meeting thereof, held on the 27th day of September 2016, and that the foregoing is a full, true and correct copy of said Resolution and has not been amended or repealed.

(SEAL)

Attest:


Jennifer Farris, Clerk of the Oversight Board
of the Inland Valley Development Agency,
acting as the Successor Agency to the
Inland Valley Development Agency

EXHIBIT A

SBCERA AGREEMENT

AGREEMENT

This Agreement (hereinafter "Agreement") is entered into by and between the San Bernardino County Employees' Retirement Association ("SBCERA"), a Retirement Association established under the County Employees' Retirement Law of 1937, and the Inland Valley Development Agency, a California Joint Powers Authority and Inland Valley Development Agency as the Successor Agency (for purposes of this Agreement only, collectively "IVDA") (hereinafter collectively "the Parties") with reference to the following:

RECITALS

WHEREAS, IVDA represents it provided staffing for itself and the San Bernardino International Airport Authority (SBIAA) also provided staffing directly on behalf of IVDA; and

WHEREAS, on or about February 1, 2012, pursuant to the Dissolution Law, redevelopment agencies were dissolved, resulting in a diversion of the tax increment funds, which IVDA represents it formerly used to pay SBCERA obligations to the State of California for distribution; and

WHEREAS, until June 22, 2012, employees of IVDA and SBIAA participated in the SBCERA in accordance with County Employees' Retirement Law Act of 1937 (the "CERL") as set forth in Government Code sections 31450 et. seq.; and

WHEREAS, on or about June 27, 2012, IVDA and SBIAA decided to terminate their participation in SBCERA effective June 30, 2012; and

WHEREAS, as a result of IVDA's termination and pursuant to Government Code section 31564.2, on or about November 19, 2012, SBCERA notified IVDA by letter that it owed SBCERA \$4,417,206 for the unfunded liability for termination of its membership from SBCERA; and

WHEREAS, as a result of SBIAA's termination and pursuant to Government Code section 31564.2, on or about November 19, 2012, SBCERA notified SBIAA by letter that it owed SBCERA \$3,593,767 for the unfunded liability for termination of its membership from SBCERA; and

WHEREAS, IVDA and SBIAA together owe SBCERA \$8,010,973 and IVDA has agreed and represented that these unfunded liabilities can be paid with monies to be received from the Department of Finance over the next five (5) years; and

WHEREAS, IVDA submitted to the Department of Finance a Recognized Obligation Payment Schedule ("ROPS") as required by ABx1 26 (Redevelopment Agency Dissolution), including ROPS 13-14A for, among other things, Item 19 for the Retirement Obligations owed by IVDA and SBIAA to SBCERA; and

WHEREAS, IVDA has secured from the Department of Finance in the attached May 17, 2013 letter (attached hereto as Exhibit 1), in Item No. 19 a determination that the Transition Cost/Retirement Obligations for the retirement obligation owed by IVDA and SBIAA to SBCERA, in the total amount of \$8,010,980 (the "Retirement Obligations"), are enforceable obligations as defined in the Dissolution Law, which the Department of Finance has determined will be payable over five (5) years in ten (10) bi-annual payments based on Recognized Obligation Payment Schedules and material submitted to and approved by the Department of Finance for the unfunded liabilities of IVDA and SBIAA to SBCERA;

WHEREAS, IVDA has represented to SBCERA that IVDA and SBIAA have no other revenues or assets which could be used to pay or secure the Retirement Obligations owed to SBCERA;

WHEREAS, by entering this Agreement, the Parties intend and desire to, without litigation, allow IVDA the opportunity and time to pay the retirement obligations owed to SBCERA from the monies allocated by the Department of Finance to IVDA over the next five (5) years without prejudice to SBCERA's right to sue for the amount owed, if, for any reason IVDA is unable to pay the total amount owed to SBCERA (including the failure of the Department of Finance to approve payment or the County Auditor Controller to pay amounts for enforceable obligations), and, in addition, to toll all applicable statutes of limitation and other time limitations, including but not limited to all statutes and other time limitations in the Code of Civil Procedure, and in the Tort Claims Action (Government Code Sections §10 et. seq.) while IVDA makes the timely payments to SBCERA as provided in Paragraph 2 below; and

WHEREAS, the Parties to this Agreement in consideration of the covenants and conditions contained herein and for other valuable consideration, including but not limited to, the mutual avoidance of costs, and the inconvenience and uncertainties relating to any litigation of claims, desire to enter into this agreement;

WHEREAS, counsel for the Parties have conferred and have agreed to approve this Agreement as to form.

NOW THEREFORE, for and in consideration of the mutual promises contained herein, the Parties stipulate and agree as follows:

1. Acknowledgment of Liability. IVDA acknowledges, agrees and represents that the unfunded liabilities IVDA and SBIAA together owe SBCERA is the amount of \$8,010,973. IVDA further acknowledges, agrees and represents that the unfunded liabilities are to be paid by the Department of Finance which has determined will be payable over five (5) years in ten (10) bi-annual payments based on Recognized Obligation Payment Schedules and material submitted to and approved by the Department of Finance for the unfunded liabilities of IVDA and SBIAA to SBCERA.

2. Schedule for Payment. IVDA will pay to SBCERA \$801,098 commencing on October 2, 2013, with the second payment due February 1, 2014 and subsequent payments due at six month intervals thereafter, for a period of five (5) years, until the total amount of \$8,010, 980 is paid to SBCERA as set forth below:

Payment Number	Last Day for Payment	Payment Amount
1	October 2, 2013	\$801,098
2	February 1, 2014	\$801,098
3	August 1, 2014	\$801,098
4	February 1, 2015	\$801,098
5	August 1, 2015	\$801,098
6	February 1, 2016	\$801,098
7	August 1, 2016	\$801,098
8	February 1, 2017	\$801,098
9	August 1, 2017	\$801,098
10	February 1, 2018	\$801,098
	Total:	\$8,010,980

3. Failure to Pay. SBCERA agrees it will not sue IVDA to collect the unfunded liabilities referenced above in paragraph 2 so long as each payment is made to SBCERA in strict accordance with the payment schedule set forth in Paragraph 2. If, *for any reason*, IVDA fails to make timely payment of any of the ten (10) payments set forth in Paragraph 2, and has still not made the full payment due by the required date for payment after five (5) business days written notice by email or any other form of communication of the failure to timely pay, SBCERA may sue and prosecute all of its claims, including without limitation, for unfunded liability, interest, breach of this Agreement, reasonable costs and attorneys' fees as it deems appropriate, after crediting against the SBCERA's claims only the actual amounts paid by IVDA under this Agreement.

4. **Cooperation and Good Faith.** IVDA will fully cooperate with SBCERA and immediately and unconditionally provide it, upon request, all of its communications with the Department of Finance in any way related to the unfunded liabilities of IVDA to SBCERA. In addition, IVDA will, in good faith and with due diligence, provide to the Department of Finance, every six (6) months and as otherwise requested, all information and documents needed to continue the allocation of Real Property Tax Trust Fund up to the amount of \$8,010,980 in accordance with the May 17, 2013 letter attached hereto or as otherwise directed by the Department of Finance.

5. **Effective Time Period.** The time between March 22, 2013, and the Termination Effective Date (defined below) shall represent the "Effective Time Period" for this Agreement and will not be included in (i) computing any statute of limitation, government code limitation, or statute of repose period for commencing a civil action, arbitration, or seeking other legal remedies of any kind whatsoever; (ii) the assertion of any equitable time-related defense whatsoever, such as, but not limited to, laches and estoppel; (iii) the assertion of any time-related defense with respect to each and every claim, cause of action and/or debt that SBCERA may assert or otherwise has against IVDA, and (iv) the assertion of any time-related defense with respect to each and every claim, cause of action and/or debt that IVDA and SBIAA may assert or otherwise has against SBCERA, separately and/or collectively.

6. **Tolling.** The running of any applicable statute of limitations or other time-related defense described in Paragraph 5, above, or otherwise referred to in this Agreement, shall be tolled during the Effective Time Period. The Parties shall not assert, plead, or raise against each other in any fashion, whether by answer, motion or otherwise, any defense or avoidance based on the running of any statute of limitation or other time-related defenses described in Paragraph 5, above, during and for the Effective Time Period.

7. **Term.** Unless mutually extended by the Parties, this Tolling Agreement shall terminate as of March 1, 2018, ("Termination Date"), whereupon the effective termination date of this Agreement shall be fifteen (15) calendar days after the Termination Date ("Termination Effective Date").

8. **Non-Waiver.** No failure by SBCERA in one or more instances to insist upon strict performance or observance of one or more of the promises, covenants or conditions hereunder or to exercise any power granted to it under this Agreement, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of SBCERA's right to demand exact

compliance with the terms hereof and/or full payment of the Retirement Obligations owed by IVDA and SBIAA to SBCERA.

9. No Waiver of Accrued Defenses. This Agreement does not affect in any way any defense based on the passage of time that may have accrued prior to March 22, 2013.

10. Preservation and Maintenance of Records. The Parties agree to not discard or destroy during the term of this Agreement, nor during the pendency of any legal proceedings which may hereafter ensue, any documents or other evidence in their possession, custody or control which may be relevant to the referenced dispute, including without limitation records, including electronic records, relating to this Agreement, payments made under this Agreement, communications with the Department of Finance, the ROPS, and the revenues, assets and liabilities of IVDA.

11. Choice of Law. This Agreement shall be governed by and under the laws of the State of California.

12. Execution by Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The Parties hereby authorize each other to detach and combine original signature pages and consolidate them into a single and identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

13. Authority. Each Party respectively represents and warrants to each other Party that the undersigned representative for such Party has full and complete authority to execute and enter into this Agreement and bind said Party to the terms hereof. IVDA shall provide to SBCERA a letter acceptable to SBCERA staff which affirms the authority of their respective undersigned representatives to execute this Agreement.

14. Facsimile or Scanned Signatures. Signatures via facsimile or scan shall be acceptable and shall be considered original signatures for all purposes.

15. Captions. Paragraphs, titles, or captions are designated for convenience only and shall in no way define, limit, extend, or describe the scope of this Agreement.

16. **Joint Preparation.** The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any Party. No presumptions or rules of interpretation based upon the identity of the Party preparing or drafting the Agreement, or any part thereof, shall be applicable or invoked.

17. **Integration.** This Agreement contains the entire agreement between the Parties with respect to the subject matter expressed herein, and no statement, promise or inducement made by any party to this Agreement, or by any agent of such party, that is not set forth in this Agreement shall be valid or binding. This Agreement may not be enlarged, modified or altered except in writing signed by each of the Parties.

18. **Mutual Release.** Upon, and only upon, full and timely payment by IVDA of all payments to SBCERA set forth in Paragraph 2 in strict accordance with the payment schedule set forth in Paragraph 2, the Parties hereto agree they have no further claims against one another, agree that all amounts due have been paid, and that any claims they had are hereby released, waived and discharged. This contingent release includes known and unknown claims. Upon, and only upon such full and timely payment, each Party expressly waives the benefit of Civil Code Section 1542 which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

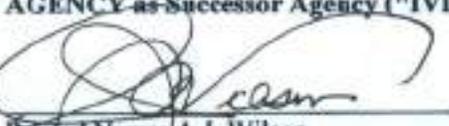
**SAN BERNARDINO COUNTY
EMPLOYEE'S RETIREMENT
ASSOCIATION ("SBCERA")**

Printed Name: _____
Title: _____
September __, 2013

**INLAND VALLEY DEVELOPMENT
AGENCY, a California Joint Powers
Authority ("IVDA").**


Printed Name: A.J. Wilson
Title: Executive
Director
September 16th, 2013

**INLAND VALLEY DEVELOPMENT
AGENCY as Successor Agency ("IVDA").**


Printed Name: A.J. Wilson
Title: Executive
Director
September 16th 2013

Approval as to Form:

Raymond Lynch, on behalf of Hanson Bridgett LLP,
attorneys for SBCERA
September __, 2013

Approval as to Form:


Elizabeth Martyn, on behalf of Lewis Brisbois
Bisgaard & Smith, attorneys for IVDA a Joint
Powers Authority and IVDA and Successor Agency
September 17, 2013

EXHIBIT 1



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 17, 2013

Mr. A.J. Wilson, Executive Director
Inland Valley Development Agency
1601 East Third Street, Suite 100
San Bernardino, CA 92408

Dear Mr. Wilson:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS 13-14A) letter dated April 14, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Inland Valley Agency (Agency) submitted a ROPS 13-14A to Finance for the period of July through December 2013. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on May 3, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific items being disputed.

- Item Nos. 4 through 8 – CMB Short Term Loans totaling \$56.1 million. Finance is no longer objecting to these items. Finance originally denied these items because insufficient documentation was provided. It is our understanding the promissory note is between the Inland Valley Development Agency (Agency), San Bernardino International Airport Authority (SBIAA) and the CMB Investment Group A; however it was unclear that the Agency is solely responsible for the SBIAA's financial obligations. During the Meet and Confer session, the Agency provided additional documentation, demonstrating the Agency is the party responsible for the loan payments. Therefore, these items are enforceable obligations and eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding on the ROPS.
- Item No. 11 – San Bernardino Valley Municipal Water District (District) Reimbursement Agreement in the amount of \$4 million. Finance continues to deny this item. Finance originally denied this item because the promissory note was executed after the June 27, 2011. It is our understanding; per the District Debt Service Pass-through Agreements the CAC Property Tax Division processed apportionments totaling \$6.5 million in error to the Agency in fiscal years 2008-09 and 2009-10. As a result, the Agency owes \$6.5 million to the District. Per the negotiated settlement, the Agency and the District entered into a promissory note to pay back funds over time. However, HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with

any entity after June 27, 2011. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding on the ROPS.

- Item No. 14 – South Drainage/Gateway South in the amount of \$331,611. Finance continues to deny this item. This item was previously denied because the agreement executed on July 1, 2012 for professional services is between SBIAA and Tom Dodson and Associates and the former RDA is not a party to the contract. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding on the ROPS.
- Item No. 16 – Building 56 Improvements in the amount of \$500,000. Finance continues to deny this item. Finance originally denied this item because the contract was executed after June 27, 2011. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The Agency contends as a Joint Powers Authority (JPA) they have duties, obligations, and revenue as a JPA that are outside of the redevelopment laws. The Agency further claims this item was placed on the ROPS because the revenue of the JPA member contributions is within the RPTTF distribution. The Agency is currently working with the CAC to separate the revenue and obligations of the JPA from the former RDA. Thus, the Agency no longer disputes this item at this time. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 18 – Airfield Water System Cuts and Caps in the amount of \$100,000. Finance continues to deny this item. Finance originally denied this item because the Agency was unable to provide additional documentation to support the request for funding. It is our understanding, the September 14, 2004 agreement provided obligated the Agency to a \$1.2 million commitment to District, payable within 18 months of the effective date of the agreement. The Agency contends the agreement allowed the Agency to fund improvements after 18 months. However, Section 1.07 (b) states, the Agency were to fully satisfy the obligation, including any additional construction work in the form of cuts and caps, within 18 months of the effective date of the agreement. The Agency also contends the JPA is further obligated to the District utilizing the revenue of JPA member contributions as discussed above in Item No. 16. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 19 – Transition Cost/Retirement Obligations in the amount of \$8 million. Finance no longer denies this item. Finance originally denied this item because information to support this expense was not yet available. The Agency requested \$1.4 million of unfunded pension liability on this ROPS. Although this item is considered an enforceable obligation, Finance has determined that the amount requested is excessive for a single ROPS period. A reasonable payment schedule for this \$1.4 million in unfunded pension liability allocated over five years results in ten bi-annual payments of \$801,098 and will cause the least amount of disruption to the taxing entities. Therefore, \$801,098 of unfunded pension obligation is an enforceable obligation payable on ROPS 13-14A. The remaining balance of \$602,096 is not an enforceable obligation at this time, and should continue to be placed on future ROPS until the obligation is retired.

- Item No. 20 – Reserve Requirement for Debt Service Payments in the amount of \$2,104,141. Finance continues to deny this item. Finance originally denied this item because it appeared sufficient funding was available. Per meet and confer session, the Agency contends a need to build the equivalent of a year's worth of payments as reserve in preparation of refinancing the current bonds and the conversion of the CMB loans to a bond-financing structure. Without refinancing, the Agency will have a shortfall and default on the upcoming CMB loan balloon payments in 2014 and beyond. Therefore, this item is an enforceable obligation and eligible for RPTTF funding on the ROPS.
- Item No. 46 – "I-10"/Tippecanoe Avenue Improvements in the amount of \$4.3 million. Finance no longer denies this item. This item was previously denied because contracts were awarded after June 27, 2011. This item was denied on ROPS III letters dated October 19, 2012 and December 18, 2012. However, since our previous determination the Agency has provided Finance with a Cooperative Agreement between IVDA and other third parties dated August 25, 2010, obligating the former RDA to pay a total of \$4.3 million of ROW and construction costs. Therefore, this is an enforceable obligation and eligible for RPTTF funding on the ROPS.
- Item No. 47 – Goods Movement 3rd and 5th Streets in the amount of \$7.5 million. Finance is no longer denying this item. This item was previously denied because contracts were awarded after June 27, 2011. This item was denied on ROPS III letters dated October 19, 2012 and December 18, 2012. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. However, since our previous decision the Agency has provided a Letter of Agreement for Design and Construction (Agreement) dated November 12, 2008, between the IVDA and the City of Highland, where the Agency agreed to fund the full costs of the Street Projects up to a maximum of \$8.6 million. Therefore, this is an enforceable obligation and eligible for RPTTF funding on the ROPS.
- Claimed administrative costs exceed the allowance by \$98,235. HSC section 34171 (b) limits the fiscal year 2013-2014 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. Although \$467,284 is claimed for administrative costs, only \$369,049 is available pursuant to the cap. Therefore, \$98,235 of excess administrative cost is not allowed.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14A. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for July through December 2013. Finance's determination is effective for this time period only and should not be conclusively relied on for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$12,670,884 as summarized below:

Approved RPTTF Distribution Amount For the period of July through December 2013	
Total RPTTF funding requested for obligations	\$ 15,108,850
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 11	1,323,508
Item 14	331,611
Item 16	450,000
Item 18	100,000
Item 19	602,096
Total approved RPTTF for enforceable obligations	\$ 12,301,635
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	369,049
Minus: ROPS II prior period adjustment	-
Total RPTTF approved for distribution: \$ 12,670,684	

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 period. The amount of RPTTF approved in the above table includes the prior period adjustment that was self-reported by the Agency. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the above table includes only the prior period adjustment that was self-reported by the Agency.

Please refer to the ROPS 13-14A schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14A Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%2013-14A%20Forms%20by%20Successor%20Agency/)

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2013. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Mr. A.J. Wilson
May 17, 2013
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Please direct inquiries to Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Alka Chudasma, Interim Director of Finance, Inland Valley Development Agency
Ms. Vanessa Doyle, Auditor Controller Manager, County of San Bernardino
California State Controller's Office