

IN REM LAW, INC.
510 WEST MAIN STREET
SUITE 107
EL CENTRO, CA 92243
(619) 723-0423

June 30, 2026

Katherine Turner
City Attorney
City of Imperial
420 S. Imperial Avenue
Imperial, CA 92251
Email: kturner@cityofimperial.org

RE: *NOTICE OF POTENTIAL LITIGATION*
DEMAND FOR RESOLUTION

Dear Ms. Turner:

This letter follows my correspondence on June 19, 2026 and the responses received through June 25, 2026. Specifically, this letter addresses the City's inadequate responses to requests made under the California Public Records Act (California Government Code § 7920.000 *et seq.*) ("CPRA" or "Act").

As a preliminary matter, I remind you that under Government Code § 7922.535(a), a public entity upon receiving a request for records under the Act shall "...determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. If the agency determines that the request seeks disclosable public records, the agency shall also state the estimated date and time when the records will be made available."

For each of the requests described below, the City did not deny that I was seeking disclosable records. The City did not indicate in writing, as required by Government Code § 7922.540, that any of the requests were denied, nor did it justify withholding any record.

As further explained below, I believe the City continues to be in violation of the Act though some responses were provided.

Public Records Act Request 2025-170

On December 16, 2025, Counsel for Novalk made the following request for documents under the to the City Clerk of the City of Imperial: "All documents supporting and/or explaining the \$50,000 in "... funds released to the developer for the reimbursement of approved facilities costs...." as depicted in footnote 3 of Section II (Subpart A) on page 3 of the City of Imperial Community Facilities District No. 2004-3 (Brotton Development) Special Tox Accountability Report (SB 165) for Fiscal Year 2024/2025. (Report was

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approved by the City Council on December 3, 2025.)” This request was assigned number 2025-170.

On December 17, 2025, the Assistant City Clerk responded by asking for clarification that the reference was to a matter on the agenda for the City Council of that same date. Specifically, the request included: “Can you please confirm you are referring to the following item? [CC12-17-25_Item-A6.pdf](#)”

Also of December 17, 2025, Counsel for Novalk confirmed the clarification of the Assistant City Clerk by email at 10:35 a.m.

On the same day, at 10:46 a.m. the Assistant City Clerk responded: “I have requested the supporting documents from our finance department. Once I receive them I will forward them to you by email, which should be by the week of December 29th.”

On December 30, 2025, the Assistant City Clerk provided a single document (CC09-18-24_Item-B7) containing 4 pages. The document contained a July 18, 2018 Disbursement Request stating that funds should be paid (less retention if applicable). It also described (without production or attachment) the disbursement of four previous payments totaling \$692,338.69; and a description of “support documents” in the form of contracts, invoices, cancelled checks, and three (3) contract bids. None of the “support documents” were provided.

On January 1, 2026, counsel wrote to the Clerk about the incomplete production and requested the supporting agreement referenced in the document provided.

On January 8, 2026, the Assistant City Clerk produced an unsigned copy of the Acquisition Agreement.

On January 17, 2026, Counsel requested the referenced information about the approval of the July 18, 2018 disbursement.

Later on January 17, 2026, Counsel provided a copy of the July 18, 2018 agenda item approving an initial disbursement of \$450,000. Request was repeated for all documents supporting and/or explaining the \$50,000 in “... funds released to the developer for the reimbursement of approved facilities costs.” Since the single document produced on December 30, 2025 identified the existence of support documents, the request was repeated for staff reports, attachments, payment request forms, invoices, finance department analysis, and any related resolution[s]. Given that the Council was empowered to retain disbursements from the developer as specified in the document

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provided, request was made for any analysis of what pertinent retentions were considered.

On January 20, 2026, the Assistant City Clerk advised that she would coordinate with the Finance Department "...to compile all responsive records."

On February 17, 2026, the Assistant City Clerk provided 3 agenda items: CC03-18-20_Item-F17 (providing credit for payments made by Novalk, LLC towards past due CFD assessments apparently unrelated to payments to Bratton Imperial L.P.); [CC09-18-24_Item-B7.pdf](#) (a repeat of the document produced on December 30, 2025), and CC01-03-24_Item-B3 depicting a payout of \$40,000. Again, no supporting documentation identified in the produced documents regarding the payments to Imperial Bratton L.P. were provided.

Though the produced documents depicted payments to Imperial Bratton L.P. on April 9, 2020 of \$102,338.69 and on July 6, 2022 of \$100,000, no documentation regarding those payments was provided.

On May 26, 2026, and again on June 19, 2026, Counsel for Novalk, LLC requested compliance with the Act.

On June 25, 2026, the Assistant City Clerk provided several documents designated as relating to the Bratton CFD: a) Resolution Number 2015-36 dealing with Community Facilities District No. 2004-1 (Victoria Ranch), apparently unrelated to any request; b) Resolution Number 2015-38 dealing with Community Facilities District No. 2005-1 (Victoria Ranch), apparently unrelated to any request; c) Resolution Number 2015-39 regarding CFD 2004-3 defeasance of bonds (no information about payments to Imperial Bratton L.P.; d) multiple documents about disbursement requests in 2005-2008 time period, including payment requests 1-11, 13, and 14 totaling \$4,738,236.92; e) an "Information Sheet" about CFD 2004-3 which states thereon that it is "...not to be relied upon for any purpose...;" f) Ordinance 692 for formation of CFD 2004-3 dated November 17, 2004; g) Recording in Book 2370 Page 814, dated November 30, 2004 of Tax Lien listing owners as Rilmington Imperial, LLC, Cedar Finance Corp. and West Shore Development Company, LLC; h) Resolution Number 2015-39 authorizing issuance of tax refunding bonds; i) Resolution Number 2004-50 adopted August 4, 2004 setting a public hearing regarding formation of CFD 2004-3; j) Resolution Number 2004-51 regarding the potential issuance of bonds; k) Resolution Number 2005-02 approving the issuance of bonds for CFD 2004-3, conditioned upon the covenant in Section 7 to diligently pursue to completion any foreclosure action as set forth in the Fiscal Agent Agreement, with attachments relating only to CFD 2004-2; and, l) a duplicate of Resolution 2015-39.

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Notably, the records provided for disbursements in the 2005-2008 timeframe were described as “redacted” documents without any explanation. This alone is a violation of Gov. Code § 7922.540.

Importantly, these same records described in (d) above, relating to the disbursements in the 2005-2008 timeframe appear to exceed the agreed sum of disbursements described in the Exhibit “A” attached to the April 18, 2005 Acquisition Agreement. Unlike the earlier disbursements, the payouts made on or after 2018, show no description of the work performed, any invoice from the developer, nor do they contain the assurances on contract compliance. Again, by June 25, 2026, the City had not produced all documents supporting and/or explaining the \$50,000 in “... funds released to the developer for the reimbursement of approved facilities costs....” six months after the initial request.

Clearly, the documents produced by the City Clerk describe supporting documents which were not produced. Each production of documents after the initial request included more proof that other responsive documents exist.

Of the greatest concern is the complete lack of documentation for the 2018 disbursement request. There is utterly nothing provided to justify any payment of \$1,652,338.69 to Imperial Bratton, L.P. There has been no production of any invoice from that entity, nor any showing that Imperial Bratton, L.P. would be entitled to any money whatsoever.

On June 25, 2026, the Assistant City Clerk asserted that the records provided in response to CPRA request 2025-170 included the 2004-3 Acquisition Agreement and three Council Agenda reports. As shown above, only two Council Agenda reports were provided (the ones produced included a duplicate of a report initially provided) and one of them (depicting Novalk’s payments to the CFD) was not responsive to the request.

The City Clerk’s office has not complied with the CPRA request 2025-170.

Public Record Act Request 2026-055

On March 24, 2026, Counsel for Novalk requests the following documents: 1. All documents evidencing any loans made by the City of Imperial to Community Facilities District (CFD) 2004-2; 2. All documents evidencing any loans made by the City of Imperial to CFD 2004-3; 3. All documents showing loans paid back to the City of Imperial from CFD 2004-2; 4. All documents showing loans paid back to the City of Imperial from CFD 2004-3; 5. All documents evidencing payments made by CFD 2004-3 pursuant to that Acquisition Agreement with Rilmington Imperial, LLC and Paseo del Sol Dos, LLC dated April 18, 2005 (request for documents includes those which show date of

payment and name of payee); and, 6. All documents showing that Rilington Imperial, LLC and/or Paseo Del Sol Dos, LLC authorized any entity to receive payments due under the Acquisition Agreement dated April 18, 2005. This request was assigned number 2026-055

On April 2, 2026, the City requested an additional 14 days to locate responsive records.

On April 15, 2026, the City Attorney for the City of Imperial produced a color-coded Finance Department spreadsheet detailing funding related to the CFDs. She also said that with the production of the spreadsheet, the CPRA request would be closed.

While the above information was somewhat responsive to Items 1-4, it was not completely responsive to those items.

For general-law California cities, resolutions, orders for payment of money, and ordinances require a recorded majority vote of the total membership of the city council. That means an “order for the payment of money” must be approved by the council with the required recorded majority vote, even if the action is not formally styled as a “resolution.” (See Cal. Gov. Code § 36936.)

Separately, demands against the city generally must be audited as prescribed by ordinance or resolution before the legislative body approves or rejects them. (See Cal. Gov. Code § 37202.) If the payment conforms to a budget approved by ordinance or resolution and is certified/approved by the city clerk, it may not need prior legislative-body audit before payment under Cal. Gov. Code § 37208.

If the “transfer” is simply payment of an approved demand, grant, contribution, reimbursement, or contractual obligation, the required form may be:

- a council-approved warrant/register of demands;
- an order for payment of money approved by recorded majority vote;
- a budget appropriation previously adopted by ordinance or resolution, followed by administrative processing; or
- a resolution, if required by the applicable statute, local ordinance, city policy, agreement, or funding source.

If the transfer is made under a joint powers’ agreement, California’s Joint Exercise of Powers Act provides that two or more public agencies may jointly exercise common powers “if authorized by their legislative or other governing bodies.” (See Cal. Gov. Code § 6502.) The statute requires governing-body authorization, but does not universally say the authorization must be by “resolution” in every case.

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Because these requests involve Mello-Roos tax issues, note that the Mello-Roos Community Facilities Act has more specific requirements. A community facilities district may finance facilities or services to be owned, operated, or provided by another public agency only under a joint community facilities agreement or joint powers agreement. For certain joint community facilities agreements, the legislative body of each entity must adopt a resolution declaring that the joint agreement would be beneficial to the residents of that entity. (See Cal. Gov. Code § 53316.2.)

No resolution, no evidence of any authorization for City funds to be transferred or loaned to CFD 2004-2 were provided. It is incomprehensible that those records do not exist. This is especially true given that the City officials constantly represented to me that there was an outstanding \$300,000 loan from the City to the CFD.

No records were provided related to Items 5 and 6 of the request. In response to the repeated requests for compliance on May 28 and June 19, 2026, the Assistant City Clerk wrote on June 25 that: "...we acknowledge that the categories of documents you are seeking appear to seek disclosable public records...." She denied that there were any other responsive records.

As pointed out before, any disbursement of funds to a CFD required Council approval. If there are no responsive documents, then this is an admission that the City was disbursing funds illegally. I cannot believe that to be the true position of the City.

Of special concern is that the May 2018 Agreement with the CFD 2004-3 developers required a written document confirming the authority of any entity claiming to be receiving money on their behalf. Again, it appears that the City is claiming it has no such document, but disbursed the money illegally to an unauthorized entity. Surely, the City will need to amend its response to this CPRA Request No. 2026-055.

Public Record Act Request 2026-068

On April 20, 2026, Counsel for Novalk submitted another request for records under the Act. The request sought 6 categories of documents: 1. Documents depicting the election of qualified elector(s) for the formation of CFD 2004-2; 2. Documents identifying the qualified elector(s) who voted for the formation of CFD 2004-2; 3. Documents depicting the election of qualified electors for the formation of CFD 2004-3; 4. Documents identifying the qualified elector(s) who voted for the formation of CFD 2004-3; 5. Resolutions adopting or approving the formation of CFD 2004-2, including but not limited to Resolutions considered on September 15, 2004, March 16, 2005, or August 17, 2005; and 6. Resolutions adopting or approving the formation of CFD 2004-3, including

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but not limited to Resolutions considered on September 15, 2004, March 16, 2005, or August 17, 2005.

The above request was assigned as PRR 2026-068 by the City Clerk's Office.

On May 7, 2026, the Assistant City Clerk responded that the documents would be provided by the following week.

On May 20, 2026, six (6) documents were produced pursuant to CPRA request 2026-068. These documents included Resolution No. 2004-51 (Bratton); Resolution No. 2004-50 (Bratton); two separate copies of Resolution No. 2005-07 (Mayfield); Resolution No. 2005-02 (Bratton); and Resolution No. 2005-08 (Mayfield). No records were produced for the requested dates of September 15, 2004 or August 17, 2005.

None of the documents provided identified any qualified electors. No names were provided and no evidence produced showing the qualifications of the undisclosed parties.

There was no indication of any claim of exemption under the Act. The response is therefore defective and inadequate.

Responsive Documents Must Exist

During the pendency of each of the foregoing requests under the Act, the City Council had numerous meetings in closed session regarding Novalk's claims. This is evidenced by the disclosures for multiple sessions. The City Attorney reported out from each session that Counsel was given instructions on these matters.

Those documents discussed in closed session and records related thereto would be responsive to these requests. The City asserted no claim of exemption for the records that otherwise might be considered attorney-client communications. Accordingly, those claims of exemption have explicitly been waived.

Demand is made for full compliance with the Act and the immediate production of the records requested.

Sincerely,



Andrew Rauch