File No. 120898

Committee Item No. _____
Board Item No. 4

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

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~~Board of Supervisors Meeting~~ Date October 2, 2012

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Completed by: Joy Lamug Date September 20, 2012
Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

[Successor Agency to the Former Redevelopment Agency]

Ordinance of the Successor Agency to the former Redevelopment Agency of the City and County of San Francisco implementing the State redevelopment dissolution law known as AB X1 26 (2011) in furtherance of the recently adopted amendments to that law known as AB 1484 and of previously adopted City policies, by 1) acknowledging that AB 1484 provides that the Successor Agency is a separate legal entity from the City, with the Successor Agency holding all of the transferred assets and obligations of the former Redevelopment Agency (other than the affordable housing assets) distinct from the City, and with the Oversight Board performing specific functions set forth in the State redevelopment dissolution law; 2) officially naming the Successor Agency as the "Successor Agency to the Redevelopment Agency of the City and County of San Francisco;" 3) acknowledging that former Redevelopment Agency employees who became Successor Agency employees by operation of AB 26 and were assigned to R classifications, and who continued in those R classifications through the effective date of AB 1484, shall continue to be Successor Agency employees; 4) creating the Successor Agency Commission as the policy body of the Successor Agency and delegating to it the authority to act in place of the former Redevelopment Agency Commission to implement the surviving redevelopment projects, the replacement housing obligations and other enforceable obligations and the authority to take actions that the State redevelopment dissolution law requires or allows on behalf of the Successor Agency; 5) establishing the composition and terms of the members of the Successor Agency Commission, setting forth voting requirements and providing for the Successor Agency Commission to appoint an Executive Director of the Successor Agency; 6) authorizing the Successor Agency to retain the City Attorney as its legal

counsel; 7) ratifying prior acts; and 8) authorizing and directing the Successor Agency Commission to take all appropriate steps to effectuate the purpose of this ordinance consistent with the State redevelopment dissolution law.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings.

(a) In accordance with the California Community Redevelopment Law, California Health and Safety Code section 33000 et. seq., the City and County of San Francisco (the "City") created the Redevelopment Agency of the City and County of San Francisco (the "Redevelopment Agency") and approved redevelopment plans to alleviate blight in various parts of the City. For more than 60 years, the Redevelopment Agency was engaged in state-authorized activities to implement those plans.

(b) The Redevelopment Agency played a critical role in alleviating physical and economic blight in disadvantaged neighborhoods in San Francisco, by attracting private investment and leveraging public resources to increase the City's supply of affordable housing, improve public facilities and infrastructure, create jobs and expand the local economy.

(c) Under Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") and the California Supreme Court's decision in California Redevelopment Association v. Matosantos, No. S194861, all redevelopment agencies in the State, including the Redevelopment Agency, were dissolved by operation of law as of February 1, 2012. Their affordable housing assets and functions were transferred to certain designated successor

housing agencies, and their non-affordable housing assets and obligations were transferred to certain designated successor agencies, which AB 26 charged with satisfying enforceable obligations of the former redevelopment agencies, preserving their assets for the benefit of taxing entities and winding up their affairs, under the supervision of a new oversight board and review by the State Department of Finance and State Controller.

(d) AB 26 defined the term "successor agency" as "the county, city, or city and county that authorized the creation of each redevelopment agency...." Accordingly, in San Francisco, the City, as the sponsoring community, was designated as the successor agency to receive the non-affordable housing assets of the former Redevelopment Agency (the "Successor Agency").

(e) AB 26 required the Successor Agency to establish separate funds to receive the revenues and pay the obligations of the former Redevelopment Agency and insulated the City from General Fund liability associated with the dissolution of the Redevelopment Agency and transfer of its assets and obligations by providing that the liability of Successor Agency acting under the powers granted under AB 26 is limited to the total sum of the property tax revenues (former tax increment) the Successor Agency receives under AB 26 and the value of the Redevelopment Agency's assets transferred to the Successor Agency.

(f) As required by AB 26, the City timely established the seven-member oversight board of the Successor Agency (the "Oversight Board"). The Mayor appointed, and the Board confirmed, four members to the Oversight Board. The Bay Area Rapid Transit District, the Chancellor of the California Community Colleges, and the County Superintendent of Education, each appointed one of the remaining three members of the Oversight Board. In exercising its authority under AB 26, the Oversight Board owes a fiduciary duty to the holders of enforceable obligations and the taxing entities.

(g) To provide for the smooth transition of assets and functions to the Successor Agency and help enable the Successor Agency to perform all enforceable obligations of the former Redevelopment Agency under AB 26, the City adopted Board of Supervisors Resolution No 11-12, which, among other things, approved the City's acceptance of the transfer of affordable housing rights, assets and functions and authorized the Mayor's Office of Housing to manage those rights, assets and functions; acknowledged and accepted the transfer of non-affordable housing rights, assets and functions and placed them under the jurisdiction of the Port of San Francisco or the Director of the Department of Administrative Services; and delegated to the Oversight Board certain implementation authority in place of the former commission of the dissolved Redevelopment Agency over three major integrated, multi-phase revitalization projects, which are- the Mission Bay North and Mission Bay South Projects, the Hunters Point Shipyard/Candlestick Point Project, and the Transbay Transit Center Project (collectively, the "Major Approved Development Projects") and which are subject to enforceable obligations requiring the implementation and completion of those projects.

(h) As to the affordable housing rights, assets, and functions, certain obligations and revenues of the former Redevelopment Agency were included in the transfer of such rights, assets and functions to the City, but the successor agency retained enforceable obligations for the development of affordable housing required to fulfill the Major Approved Development Projects and the replacement housing obligation associated with the former Redevelopment Agency's destruction of 6700 affordable units in the 1960's and early 1970's (See California Health & Safety Code Sections 33333.7 and 33333.8, Oversight Board Resolution No. 5-2012 (April 10, 2012), and Board Ordinances No. 256-09 (Dec. 30, 2009), No. 316-08 (Dec. 19, 2008) and No. 15-05 (Jan. 21, 2005)) (collectively, the "Retained ~~Replacement~~ Housing Obligations").

(i) This ordinance acknowledges that the authority over Major Approved Development Projects delegated to the Oversight Board by Board of Supervisors Resolution No. 11-12 and the transfer of authority to City departments over non-affordable housing assets have been superseded by the recently adopted budget trailer bill, Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12, Regular Session) ('AB 1484"), and are no longer in effect. Such previously d~~D~~elegated authority includes, without limitation, (i) granting approvals under the Land Use Controls (as defined in Board Resolution No. 11-12), (ii) approving changes to, amending, or fulfilling the terms of enforceable obligations, and (iii) exercising the authority previously exercisable by the Redevelopment Agency Commission. Non-affordable housing assets include, without limitation, all rights, interests, privileges, property—real, personal and intangible, including all loans and grants, all property, such as land, buildings, and dwelling units held by the Agency, the rights to all disposition and development agreements, owner participation agreements or other agreements that comprise enforceable obligations.

-(j) As required by AB 26, on March 6, 2012, by Resolution No. 3-2012, the Oversight Board approved the transfer of affordable housing assets of the former Redevelopment Agency to the City, under the administrative jurisdiction of the Mayor's Office of Housing. On March 9, 2012, the Successor Agency submitted Resolution No. 3-2012 to the Department of Finance, which did not object to the resolution. In addition, on April 10, 2012, the Oversight Board approved, by Resolution No. 5-2012, a Recognized Obligation Payment Schedule ("ROPS") for the period January 1, 2012 to June 30, 2012, and a housing obligation summary identifying the Retained Housing Obligations. Resolution 5-2012 was submitted to Department of Finance, which did not object to the resolution. ~~In addition, as~~ As required under AB 1484 (Cal. Health & Safety Code Section 34176 (a) (2)), on August 1, 2012, the Mayor's Office of Housing submitted a Housing Asset List containing a list of all housing assets of the former Redevelopment Agency to the Department of Finance, which ~~has not~~

~~objected to the assets or transfers of assets on the list~~approved the Housing Asset List on September 7, 2012. The term "Housing Assets" as used in this Ordinance means the assets transferred to the City and placed under the jurisdiction of the Mayor's Office of Housing under the Redevelopment Dissolution Law and by Board of Supervisors Resolution No. 11-12, as approved by Oversight Board Resolution No. 3-2012, and ~~approved on~~ included in the Housing Asset List as approved by the Department of Finance. ~~Accordingly, under~~ Under AB 26, AB 1484, and Resolution No. 11-12, ~~such affordable housing assets~~ Housing Assets are now held by the City, acting through the Mayor's Office of Housing, and are no longer under the jurisdiction of the Successor Agency (except for Oversight Board approval of the use of former tax increment under AB 26, as amended by AB 1484), nor is title to such assets affected by AB 1484's provisions regarding the legal status of the Successor Agency. Such ~~affordable housing assets~~Housing Assets are outside the scope of the delegated authority under this ordinance, unless they are subject to the Retained Housing Obligations~~-~~.

(k) Both the Redevelopment Agency and the Oversight Board have previously retained the City Attorney for certain legal advice and representation under memoranda of understanding that those parties negotiated and approved.

(l) Under AB 26, the Successor Agency became the employer of all employees of the former Redevelopment Agency on the date of its dissolution. The City, in its capacity as Successor Agency, assigned "R" classifications to employees of the former Redevelopment Agency, indicating their status as having become employees of the Successor Agency by operation of law under AB 26. The City, in such capacity as Successor Agency, negotiated amendments to memoranda of agreement with the unions representing employees of the former Redevelopment Agency ("MOAs"), which were approved by the City under Board of Supervisors Ordinance Nos. 120-12, 121-12, 122-12 and 123-12. Those MOAs have an expiration date of June 30, 2012.

(m) AB 26 requires successor agencies to submit to the State's Department of Finance a ~~Recognized Obligation Payment Schedule ("ROPS")~~ for each six-month period, which is approved by oversight boards, and which identifies the sources of payment for enforceable obligations. The City, as Successor Agency, timely submitted to the Department of Finance the ROPS, approved by the Oversight Board, for the periods January 1, 2012 to June 30, 2012 (Oversight Board Resolution No. 5-2012) and July 1, 2012 to December 31, 2012 (Oversight Board Resolution No. 6-2012). The Department of Finance approved each ROPS, including the funds identified in each for, among other things, long term affordable housing obligations and pension and benefit obligations to current and retired employees of the former Redevelopment Agency.

(n) In June 2012, the California Legislature adopted legislation amending AB 26 as a trailer bill to the State's budget bill for the 2012-2013 fiscal year, AB 1484, and the Governor signed that bill on June 27, 2012. The State maintains that under Proposition 25 (November 2010), AB 1484 went into effect upon the Governor's signature. While AB 26 defined the successor agency to be the sponsoring community (as described above), AB 1484 changes that definition of successor agency and now provides:

(1) the successor agency is a separate public entity from the public agency that provides for its governance and the two entities shall not merge;

(2) the liabilities of the former redevelopment agency shall not be transferred to the sponsoring entity and the (non-housing) assets shall not become assets of the sponsoring entity;

(3) the successor agency has its own name and the capacity to sue and be sued;

(4) the successor agency shall be substituted for the redevelopment agency in all litigation to which a redevelopment agency is a party;

(5) the former redevelopment agency employees shall not automatically become employees of the sponsoring entity and the successor agency shall retain its own collective bargaining status;

(6) the successor agency succeeds to the organizational status of the former redevelopment agency but without any legal authority to participate in redevelopment activities except to complete the work related to an approved enforceable obligation; and

(7) the successor agency is a local entity for purposes of the Ralph M. Brown Act.

(o) AB 1484 does not specify what the governing body of the Successor Agency is or how it must take actions (other than to provide that it is subject to the State's public meeting rules).

(p) By operation of law, in San Francisco the Successor Agency is now distinct from the City but is still subject to the governance of the City acting through its legislative capacity.

(q) Since the dissolution of the Redevelopment Agency on February 1, 2012, the City has been successful in helping restore investor confidence in the surviving redevelopment projects, including the Major Approved Development Projects, so that the City can achieve its goals of increasing the supply of affordable housing, improving public facilities and infrastructure, creating jobs, expanding the local economy and realizing other public benefits, and the City, acting in its capacity as Successor Agency, has made all required payments and otherwise performed enforceable obligations, including payments due on outstanding tax allocation bonds, and the Successor Agency has not been adversely affected by the potential cash flow issues that some of the bond rating agencies have identified as issues under AB 26.

(r) This ordinance is consistent with the City's policies and objectives expressed in Resolution No. 11-12: (1) smooth transition of assets and functions to the Successor Agency;

(2) performance of all enforceable obligations of the former Agency consistent with applicable law; and (3) achievement of the other policy objectives set forth in Resolution No. 11-12.

(s) This ordinance, by establishing a Successor Agency Commission and delegating certain authority to that commission, is intended to be consistent with the provisions of AB 1484 that the Successor Agency succeed to the organizational status of the former redevelopment agency but without legal authority to participate in redevelopment activities other than to complete work related to enforceable obligations.

Section 2. Environmental Findings.

Adoption of this ordinance is not a "project" within the meaning of Public Resources Code Section 21065 of the California Environmental Quality Act ("CEQA") and Section 15378 of the CEQA Guidelines because this ordinance addresses organizational and administrative matters that will not result in direct or indirect physical changes in the environment. This ordinance provides for the continuance of existing governmental organization, administrative activities and operations and creation of a new commission for that organization, does not authorize the encumbrance or use of any new funds on any specific projects that could result in physical changes to the environment, and will not result in changes in conditions in any redevelopment project or survey area, as provided in the letters from the Planning Department on file with the Clerk of the Board of Supervisors in File No. 120898 which is hereby declared to be a part of this ordinance as if set forth fully herein.

Section 3. Separate Legal Entity. This ordinance acknowledges and confirms that as of AB 1484's effective date, the Successor Agency is a separate legal entity from the City and is subject to the governance of the City acting in its legislative capacity. Accordingly, the Board of Supervisors, as the legislative body of the Successor Agency, adopts this ordinance under the provisions of City Charter relating to the adoption of ordinances. This ordinance further acknowledges and confirms that the Successor Agency holds, subject to the applicable

rights and restrictions set forth in the Redevelopment Dissolution Law, title to all assets, including, without limitation, all real property, and all rights, obligations and liabilities of the former Redevelopment Agency, including the Retained ~~Replacement~~ Housing Obligations and excluding the Housing Assets~~ose housing assets to which the Department of Finance has not objected on the Housing Asset List submitted by the Mayor's Office of Housing under Section 34176 (a)(2) of the California Health & Safety Code.~~ As used in this ordinance, "Redevelopment Dissolution Law" shall mean AB 26 as amended by AB 1484, and as it may be further amended from time to time. The Board of Supervisors of the City shall have final budget approval authority over the Successor Agency in its annual budget process in accordance with California Health and Safety Code Section 33606, subject to the Redevelopment Dissolution Law.

Section 4. Name of Successor Agency. This ordinance declares that the name of the Successor Agency is the "Successor Agency to the Redevelopment Agency of the City and County of San Francisco."

Section 5. Employee Status. This ordinance acknowledges that under AB 1484, those employees of the former Redevelopment Agency who became employees of the City as Successor Agency by operation of law under AB 26, and who continued to be employed by the City as Successor Agency in an "R" classification as of June 27, 2012, on that date continued to be employees of the Successor Agency only, which is now a separate legal entity distinct from the City under AB 1484.

Section 6. Successor Agency Commission.

(a) This ordinance establishes the Successor Agency Commission (the "Commission"). This ordinance delegates to the Commission the authority (excluding authority as to the ~~affordable housing assets~~Housing Assets ~~that were transferred to the City under ABX1 26 and placed under the jurisdiction of the Mayor's Office of Housing under Board of Supervisors~~

~~Resolution 11-12 and that the Department of Finance has not objected to in its review of the Housing Asset List under AB 1484~~) to: (1) act in place of the former commission of the dissolved Redevelopment Agency to implement, modify, enforce and complete the surviving redevelopment projects, including, without limitation, the Major Approved Development Projects, the Retained ~~Replacement~~ Housing Obligations, and all other enforceable obligations, except for those enforceable obligations for affordable housing transferred to the City and placed under the jurisdiction of the Mayor's Office of Housing; provided, however, that the Successor Agency Commission shall not modify the Major Approved Development Projects or the Retained Housing Obligations in any manner that would decrease the commitment of property tax revenue for affordable housing or materially change the obligations to provide affordable housing without obtaining the approval of the Board of Supervisors and any required approval of the Oversight Board; (2) approve all contracts and actions related to the assets transferred to or retained by the Successor Agency, including, without limitation, the authority to exercise land use, development and design approval authority for the Major Approved Development Projects and other surviving redevelopment projects, and the approval of amendments to redevelopment plans as allowed under the Redevelopment Dissolution Law and subject to adoption of such plan amendments by the Board of Supervisors and any required approval by the Oversight Board, consistent with applicable enforceable obligations; and (3) take any action that the Redevelopment Dissolution Law requires or authorizes on behalf of the Successor Agency and any other action that the Commission deems appropriate consistent with the Redevelopment Dissolution Law to comply with such obligations, including, without limitation, preparing and submitting to the Oversight Board each ROPS ~~to the Oversight Board~~, which shall include, among other things, the long term affordable housing obligations described in Oversight Board Resolution No. 5-2012, authorizing additional obligations in furtherance of enforceable obligations, and

approving the issuance- of bonds to carry out the enforceable obligations, subject to any approval of the Oversight Board as may be required under the Redevelopment Dissolution Law.

(b) The Commission shall consist of five members appointed by the Mayor, subject to confirmation by a majority of this Board of Supervisors. The member appointed to Seat 1 shall be a resident of the supervisorial district that includes the largest amount of cumulative area of the Major Approved Development Projects. The member appointed to Seat 2 shall be a resident of the supervisorial district that includes the second largest amount of cumulative area of the Major Approved Development Projects. The members appointed to Seats 3, 4 and 5 need not reside in any specific supervisorial district. Each of the members shall serve for a term of four years, subject to the provisions of subsection (d) below regarding initial terms. Members of the Commission shall serve at the pleasure of the Mayor and without compensation or reimbursement for expenses. Members of the Commission are protected by the immunities applicable to public entities and public officers and employees governed by Part I (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the California Government Code.

(c) Each member of the Commission shall be a resident of the City and County of San Francisco.

(d) To provide for staggered terms, the members appointed to Seats 2 and 4 shall serve for an initial term of two years from the effective date of this ordinance ~~2012~~. The remaining three members appointed to Seats 1, 3, and 5 shall serve for an initial term of four years from the effective date of this ordinance ~~, 2012~~, and thereafter the terms of all members shall be four years.

(e) The Commission shall approve matters by the affirmative vote of the majority of the members present, so long as the members present constitute a quorum (three or more).

(f) The Commission shall appoint an Executive Director who shall be the chief executive of the Successor Agency and who shall have the responsibility for the day-to-day management of all the affairs and activities of the Successor Agency. -The Commission shall fix the salary of the Executive Director. The Executive Director shall serve at the pleasure of the Commission. The Executive Director shall possess the administrative and executive skills necessary to perform the duties of the office. The Commission may delegate to the Executive Director any of its duties it deems appropriate.

(g) The Executive Director shall follow the Commission's policy directions on all matters concerning collective bargaining, meeting and conferring with the recognized representatives for employees, and the adoption of local rules under the Meyer-Milias-Brown Act. No collective bargaining agreement shall be binding on the Successor Agency unless approved by the Commission.

Section 7. City Attorney as Legal Counsel. This ordinance authorizes the Successor Agency to retain, as it deems appropriate, the City Attorney for legal advice and representation.

Section 8. Ratification. This ordinance ratifies and approves all former acts of the Oversight Board, staff of the Successor Agency, the Department of Administrative Services, the Controller and other City employees and officials regarding implementation of the surviving redevelopment projects, other enforceable obligations, and other work in furtherance of the Successor Agency's obligations under the Redevelopment Dissolution Law.

Section 9. Additional Acts. This ordinance directs the Commission to take all steps that are appropriate to effectuate the purpose of this ordinance consistent with the Redevelopment Dissolution Law. In addition, this ordinance directs the Successor Agency to

report to this Board of Supervisors, in its capacity as the legislative body of the Successor Agency, within 120 days of the effective date of this ordinance, with a framework to which the Successor Agency and the Mayor's Office of Housing have agreed for fulfilling their respective responsibilities for the implementation plan for the funding and approval of affordable housing projects required under the Major Approved Development Projects and the Retained Housing Obligations. The Successor Agency may report to this Board either in writing or at a public meeting of this Board.

Section 10. Effective Date. This ordinance shall become effective 30 days from the date of passage.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Robert A. Bryan
Deputy City Attorney

FILE NO. 120898

LEGISLATIVE DIGEST

[Successor Agency to the Former Redevelopment Agency]

Ordinance of the Successor Agency to the former Redevelopment Agency of the City and County of San Francisco implementing the State redevelopment dissolution law known as AB X1 26 (2011) in furtherance of the recently adopted amendments to that law known as AB 1484 and of previously adopted City policies, by 1) acknowledging that AB 1484 provides that the Successor Agency is a separate legal entity from the City, with the Successor Agency holding all of the transferred assets and obligations of the former Redevelopment Agency (other than the affordable housing assets) distinct from the City, and with the Oversight Board performing specific functions set forth in the State redevelopment dissolution law; 2) officially naming the Successor Agency as the "Successor Agency to the Redevelopment Agency of the City and County of San Francisco;" 3) acknowledging that former Redevelopment Agency employees who became Successor Agency employees by operation of AB 26 and were assigned to R classifications, and who continued in those R classifications through the effective date of AB 1484, shall continue to be Successor Agency employees; 4) creating the Successor Agency Commission as the policy body of the Successor Agency and delegating to it the authority to act in place of the former Redevelopment Agency Commission to implement the surviving redevelopment projects, the replacement housing obligations and other enforceable obligations and the authority to take actions that the State redevelopment dissolution law requires or allows on behalf of the Successor Agency; 5) establishing the composition and terms of the members of the Successor Agency Commission, setting forth voting requirements and providing for the Successor Agency Commission to appoint an Executive Director of the Successor Agency; 6) authorizing the Successor Agency to retain the City Attorney as its legal counsel; 7) ratifying prior acts; and 8) authorizing and directing the Successor Agency Commission to take all appropriate steps to effectuate the purpose of this ordinance consistent with the State redevelopment dissolution law.

New Law

This ordinance makes changes necessary to reflect a change to the State Redevelopment Dissolution Law (AB X1 26, as amended by AB 1484, and as further amended from time to time) establishing successor agencies as separate legal entities, including the following:

(1) acknowledges and confirms that as of AB 1484's effective date, the Successor Agency is a separate legal entity from the City subject to the governance of the City acting in its legislative capacity, and confirms that the Successor Agency holds title to all assets of the former Redevelopment Agency excluding affordable assets transferred to the Mayor's Office of Housing ("MOH") unless subject to housing obligations retained by the Successor Agency;

(2) Names the Successor Agency the "Successor Agency to the Redevelopment Agency of the City and County of San Francisco;"

(3) acknowledges that under AB 1484, those employees of the former Redevelopment Agency who became employees of the City as Successor Agency by operation of law under AB 26, and who continued to be employed by the City as Successor Agency in an "R" classification as of June 27, 2012, on that date continued to be employees of the Successor Agency only;

(4) (a) creates the Successor Agency Commission (the "Commission") with 5 members appointed by the mayor subject to confirmation by the Board of Supervisors; and

(b) delegating authority to the Commission authority (except for affordable housing assets and obligations under the jurisdiction of MOH) to: (1) act in place of the former commission of the dissolved Redevelopment Agency to carry out the surviving redevelopment projects and Retained Housing Obligations, (2) approve all contracts and actions related to the assets of the Successor Agency; and (3) discharge all functions Redevelopment Dissolution Law requires or allows on behalf of the Successor Agency; and

(c) empowers Commission to appoint and at its pleasure remove an Executive Director of the Successor Agency with responsibility for the day-to-day management of all the affairs and activities of the Successor Agency;

(5) authorizes the Successor Agency to retain the City Attorney for legal advice and representation; and

(6) ratifies and approves all former acts of the Oversight Board, staff of the Successor Agency, the Department of Administrative Services, the Controller and other City employees and officials regarding implementation of the surviving redevelopment projects, other enforceable obligations, and other work in furtherance of the Successor Agency's obligations under the Redevelopment Dissolution Law, and directs the Successor Agency Commission to take all steps appropriate to effectuate the purpose of the ordinance, consistent with the Redevelopment Dissolution Law.

Background Information

This ordinance is necessary to address changes to the State Redevelopment Law created by the State Legislature's adoption of a trailer bill to the State's budget bill for the 2012-2013 fiscal year, known as Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12, Regular Session) ("AB 1484"). Prior to the adoption of AB 1484, Assembly Bill No. 1 X26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") defined a "successor agency" as the "county, city, or city and county that authorized the creation of each redevelopment agency . . ." AB 1484, changed that definition, by declaring successor agencies to be

separate legal entities which are now separate public entities from the public agencies that provide for their governance.

This ordinance is needed to address actions of City officers and employees prior to AB 1484, and to implement future actions of the Successor Agency. Subject to the Redevelopment Dissolution Law, this ordinance is intended to be consistent with earlier City policies regarding the Successor Agency, implemented through Board of Supervisors Resolution No. 11-12, and creates a new commission for the Successor Agency which functions like the commission of the former Redevelopment Agency. Before AB 1484, the Redevelopment Dissolution Law required the establishment of an Oversight Board for the Successor Agency. The Oversight Board continues as a second policy body of the Successor Agency, performing activities as required by the Redevelopment Dissolution Law, including review of the expenditures of the Successor Agency and approval of the disposition of assets.

AB 26 dissolved all redevelopment agencies in the State, including the San Francisco Redevelopment Agency, as of February 1, 2012 (upheld in California Redevelopment Association v. Matosantos Cal. Supreme Court, No. S194861). AB 26 transferred non-affordable housing assets and obligations of the former redevelopment agencies to successor agencies. AB 26 transferred the affordable housing assets and related functions of former redevelopment agencies to certain designated successor housing agencies.

To provide for the smooth transition of assets and functions to the Successor Agency and help enable the Successor Agency to perform all enforceable obligations of the former Redevelopment Agency under AB 26, the City adopted Board of Supervisors Resolution No 11-12 on January 24, 2012. Among other things, Resolution No. 11-12: (1) accepted the transfer of affordable housing rights, assets and functions and authorized the Mayor's Office of Housing to manage them; (2) acknowledged and accepted the transfer of non-affordable housing rights, assets and functions and placed them under the jurisdiction of the Port of San Francisco or the Director of the Department of Administrative Services; and (3) delegated to the Oversight Board certain implementation authority in place of the former Redevelopment Agency Commission over three major integrated, multi-phase revitalization projects including the Mission Bay North and Mission Bay South Projects, the Hunters Point Shipyard/Candlestick Point Project, and the Transbay Transit Center Project (collectively, the "Major Approved Development Projects").

Under AB 26 and Resolution No. 11-12, the City now holds the affordable housing assets acting through the Mayor's Office of Housing. They are no longer under the jurisdiction of the Successor Agency (except for Oversight Board approval of the use of former tax increment and the certain Retained Housing Obligations). AB 1484's provisions do not affect title to such assets

However, AB 1484 superseded the authority of the Oversight Board over Major Approved Development Projects and the of Port and Director of Administrative Services over non-affordable housing assets that Board of Supervisors Resolution No. 11-12 effected. This

ordinance would delegate such and other authority to the Commission for the Successor Agency.

Under AB 1484, the Successor Agency succeeds to the organizational status of the former redevelopment agency. But AB 1484 did not address governance of the Successor Agency. Therefore, this ordinance creates the commission for the Successor Agency with a composition and manner of selection modeled after the former Redevelopment Agency Commission. Nothwithstanding the delegation of authority to the commission, the City, through the Board of Supervisors, retains its authority over the former Redevelopment Agency to the extent the Successor Agency seeks to approve amendments to existing redevelopment plans.

Under AB 26, the Successor Agency became the employer of all employees of the former Redevelopment Agency on the date of its dissolution. The City, in its capacity as Successor Agency, assigned "R" classifications to employees of the former Redevelopment Agency, indicating their status as having become employees of the Successor Agency by operation of law under AB 26

Under AB 1484, the former redevelopment agency employees do not automatically become employees of the sponsoring entity and the successor agency retains its own collective bargaining status. Accordingly, employees of the former Redevelopment Agency who became employees of the City as Successor Agency by operation of law under AB 26, and who continued to be employed by the City as Successor Agency in an "R" classification as of June 27, 2012, on that date continued to be employees of the Successor Agency only, which is now a separate legal entity distinct from the City.

Although AB 1484 makes successor agencies separate legal entities, it does not specify what the governing body of a successor agency is or how it must take actions (other than to provide that it is subject to the State's public meeting rules). By operation of law, in San Francisco, the Successor Agency is now distinct from the City but is still subject to the governance of the City acting through its legislative capacity. Accordingly, this ordinance is before the Board of Supervisors, as the legislative body of the Successor Agency, to be adopted in accordance with the provisions of the City Charter relating to the adoption of ordinances.

File No 120898
Judson True to: BOS Legislation, Andrea Ausberry 09/20/2012 11:35 AM
Cc: Andrea Bruss, Angela Calvillo, Bill Barnes, Tiffany Bohee

President Chiu hereby waives the 30 day rule on the ordinance below:

120898 [Successor Agency to the Former Redevelopment Agency]
Sponsors: Mayor; Kim, Cohen and Olague
Draft Ordinance of the Successor Agency to the former Redevelopment Agency of the City and County of San Francisco implementing the State redevelopment dissolution law known as AB X1 26 (2011) in furtherance of the recently adopted amendments to that law known as AB 1484 and of previously adopted City policies by 1) acknowledging that AB 1484 provides that the Successor Agency is a separate legal entity from the City, with the Successor Agency holding all of the transferred assets and obligations of the former Redevelopment Agency (other than the affordable housing assets) distinct from the City, and with the Oversight Board performing specific functions set forth in the State redevelopment dissolution law; 2) officially naming the Successor Agency as the "Successor Agency to the Redevelopment Agency of the City and County of San Francisco;" 3) acknowledging that former Redevelopment Agency employees who became Successor Agency employees by operation of AB 26 and were assigned to R classifications, and who continued in those R classifications through the effective date of AB 1484, shall continue to be Successor Agency employees; 4) creating the Successor Agency Commission as the policy body of the Successor Agency and delegating to it the authority to act in place of the former Redevelopment Agency Commission to implement the surviving redevelopment projects, the replacement housing obligation and other enforceable obligations and the authority to take actions that the State redevelopment dissolution law requires or allows on behalf of the Successor Agency; 5) establishing the composition and terms of the members of the Successor Agency Commission, setting forth voting requirements and providing for Successor Agency Commission to appoint an Executive Director of the Successor Agency; 6) authorizing the Successor Agency to retain the City Attorney as its legal counsel; 7) ratifying prior acts; and 8) authorizing and directing the Successor Agency Commission to take all appropriate steps to effectuate the purpose of this ordinance consistent with the State redevelopment dissolution law. ASSIGNED UNDER 30 DAY RULE to Board of Supervisors.

Judson True
Office of Supervisor David Chiu
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San Francisco, CA 94102
415.554.7451 desk
415.554.7454 fax

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: for Mayor Edwin M. Lee
RE: Successor Agency to the Former Redevelopment Agency
DATE: September 11, 2012

Attached for introduction to the Board of Supervisors is the ordinance of the Successor Agency to the former Redevelopment Agency of the City and County of San Francisco implementing the State redevelopment dissolution law known as AB X1 26 (2011) in furtherance of the recently adopted amendments to that law known as AB 1484 and of previously adopted City policies, by 1) acknowledging that AB 1484 provides that the Successor Agency is a separate legal entity from the City, with the Successor Agency holding all of the transferred assets and obligations of the former Redevelopment Agency (other than the affordable housing assets) distinct from the City, and with the Oversight Board performing specific functions set forth in the State redevelopment dissolution law; 2) officially naming the Successor Agency as the "Successor Agency to the Redevelopment Agency of the City and County of San Francisco;" 3) acknowledging that former Redevelopment Agency employees who became Successor Agency employees by operation of AB 26 and were assigned to R classifications, and who continued in those R classifications through the effective date of AB 1484, shall continue to be Successor Agency employees; 4) creating the Successor Agency Commission as the policy body of the Successor Agency and delegating to it the authority to act in place of the former Redevelopment Agency Commission to implement the surviving redevelopment projects, the replacement housing obligation and other enforceable obligations and the authority to take actions that the State redevelopment dissolution law requires or allows on behalf of the Successor Agency; 5) establishing the composition and terms of the members of the Successor Agency Commission, setting forth voting requirements and providing for Successor Agency Commission to appoint an Executive Director of the Successor Agency; 6) authorizing the Successor Agency to retain the City Attorney as its legal counsel 7) ratifying prior acts; and 8) authorizing and directing the Successor Agency Commission to take all appropriate steps to effectuate the purpose of this ordinance consistent with the State redevelopment dissolution law.

Please note this item is cosponsored by Supervisors Kim, Cohen, and Olague.

I request a waiver of the 30-day rule.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE: (415) 554-6141

120898

Section 7. City Attorney as Legal Counsel. This ordinance authorizes the Successor Agency to retain, as it deems appropriate, the City Attorney for legal advice and representation.

Section 8. Ratification. This ordinance ratifies and approves all former acts of the Oversight Board, staff of the Successor Agency, the Department of Administrative Services, the Controller and other City employees and officials regarding implementation of the surviving redevelopment projects, other enforceable obligations, and other work in furtherance of the Successor Agency's obligations under the Redevelopment Dissolution Law.

Section 9. Additional Acts. This ordinance directs the Commission to take all steps that are appropriate to effectuate the purpose of this ordinance consistent with the Redevelopment Dissolution Law.

Section 10. Effective Date. This ordinance shall become effective 30 days from the date of passage.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: Robert A. Bryan
Robert A. Bryan
Deputy City Attorney

Not a Project
CEQA Section 15060 (c)(3).
Sept. 24, 2012
Liz Navarrete