

1 [Successor Agency to the Former Redevelopment Agency]

2

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

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

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

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

9 Section 1. General Findings.

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

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

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

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

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

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

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

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

16 (h) As to the affordable housing rights, assets, and functions, certain obligations and
17 revenues of the former Redevelopment Agency were included in the transfer of such rights,
18 assets and functions to the City, but the successor agency retained enforceable obligations
19 for the development of affordable housing required to fulfill the Major Approved Development
20 Projects and the replacement housing obligation associated with the former Redevelopment
21 Agency's destruction of 6700 affordable units in the 1960's and early 1970's (See California
22 Health & Safety Code Sections 33333.7 and 33333.8, Oversight Board Resolution No. 5-
23 2012 (April 10, 2012), and Board Ordinances No. 256-09 (Dec. 30, 2009), No. 316-08 (Dec.
24 19, 2008) and No. 15-05 (Jan. 21, 2005)) (collectively, the "Retained Replacement Housing
25 Obligations").

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

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

1 Housing Asset List on September 7, 2012. The term "Housing Assets" as used in this
2 Ordinance means the assets transferred under the jurisdiction of the Mayor's Office of
3 Housing by Board of Supervisors Resolution No. 11-12, as approved by Oversight Board
4 Resolution No. 3-2012, and approved on included in the Housing Asset List as approved by
5 the Department of Finance. Accordingly, under Under AB 26, AB 1484, and Resolution No.
6 11-12, such affordable housing assets Housing Assets are now held by the City, acting
7 through the Mayor's Office of Housing, and are no longer under the jurisdiction of the
8 Successor Agency (except for Oversight Board approval of the use of former tax increment
9 under AB 26, as amended by AB 1484), nor is title to such assets affected by AB 1484's
10 provisions regarding the legal status of the Successor Agency. Such affordable housing
11 assets Housing Assets are outside the scope of the delegated authority under this ordinance,
12 unless they are subject to the Retained Housing Obligations.

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

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

25

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

11 (n) In June 2012, the California Legislature adopted legislation amending AB 26 as a
12 trailer bill to the State's budget bill for the 2012-2013 fiscal year, AB 1484, and the Governor
13 signed that bill on June 27, 2012. The State maintains that under Proposition 25 (November
14 2010), AB 1484 went into effect upon the Governor's signature. While AB 26 defined the
15 successor agency to be the sponsoring community (as described above), AB 1484 changes
16 that definition of successor agency and now provides:

- 17 (1) the successor agency is a separate public entity from the public agency that
18 provides for its governance and the two entities shall not merge;
- 19 (2) the liabilities of the former redevelopment agency shall not be transferred to
20 the sponsoring entity and the (non-housing) assets shall not become assets of
21 the sponsoring entity;
- 22 (3) the successor agency has its own name and the capacity to sue and be
23 sued;
- 24 (4) the successor agency shall be substituted for the redevelopment agency in
25 all litigation to which a redevelopment agency is a party;

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

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

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

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

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

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

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

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

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

8 Section 2. Environmental Findings.

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

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

1 Dissolution Law, title to all assets, including, without limitation, all real property, and all rights,
2 obligations and liabilities of the former Redevelopment Agency, including the Retained
3 Replacement Housing Obligations and excluding the Housing Assets ~~ese housing assets to~~
4 ~~which the Department of Finance has not objected on the Housing Asset List submitted by the~~
5 ~~Mayor's Office of Housing under Section 34176 (a)(2) of the California Health & Safety Code.~~
6 "Redevelopment Dissolution Law" shall mean AB 26 as amended by AB 1484, and as it may
7 be further amended from time to time.

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

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

17 Section 6. Successor Agency Commission.

18 (a) This ordinance establishes the Successor Agency Commission (the "Commission").
19 This ordinance delegates to the Commission the authority (excluding authority as to the
20 ~~affordable housing assets~~ Housing Assets ~~that were transferred to the City under ABX1-26 and~~
21 ~~placed under the jurisdiction of the Mayor's Office of Housing under Board of Supervisors~~
22 ~~Resolution 11-12 and that the Department of Finance has not objected to in its review of the~~
23 ~~Housing Asset List under AB 1484~~) to: (1) act in place of the former commission of the
24 dissolved Redevelopment Agency to implement, modify, enforce and complete the surviving
25 redevelopment projects, including, without limitation, the Major Approved Development

1 Projects, the Retained Replacement Housing Obligations, and all other enforceable
2 obligations, except for those enforceable obligations for affordable housing transferred to the
3 City and placed under the jurisdiction of the Mayor's Office of Housing; (2) approve all
4 contracts and actions related to the assets transferred to or retained by the Successor
5 Agency, including, without limitation, the authority to exercise land use, development and
6 design approval authority for the Major Approved Development Projects and other surviving
7 redevelopment projects, and the approval of amendments to redevelopment plans as allowed
8 under the Redevelopment Dissolution Law and subject to adoption of such plan amendments
9 by the Board of Supervisors and any required approval by the Oversight Board, consistent
10 with applicable enforceable obligations; and (3) take any action that the Redevelopment
11 Dissolution Law requires or authorizes on behalf of the Successor Agency and any other
12 action that the Commission deems appropriate consistent with the Redevelopment Dissolution
13 Law to comply with such obligations, including, without limitation, preparing and submitting to
14 the Oversight Board each ROPS ~~to the Oversight Board~~, which shall include, among other
15 things, the long term affordable housing obligations described in Oversight Board Resolution
16 No. 5-2012, authorizing additional obligations in furtherance of enforceable obligations, and
17 approving the issuance- of bonds to carry out the enforceable obligations, subject to any
18 approval of the Oversight Board as may be required under the Redevelopment Dissolution
19 Law.

20 (b) The Commission shall consist of five members appointed by the Mayor, subject to
21 confirmation by a majority of this Board of Supervisors. Each of the members shall serve for a
22 term of four years, subject to the provisions of subsection (d) below regarding initial terms.
23 Members of the Commission shall serve at the pleasure of the Mayor and without
24 compensation or reimbursement for expenses. Members of the Commission are protected by
25 the immunities applicable to public entities and public officers and employees governed by

1 Part I (commencing with Section 810) and Part 2 (commencing with Section 814) of Division
2 3.6 of Title 1 of the California Government Code.

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

5 (d) To provide for staggered terms, the members appointed to Seats 2 and 4 shall
6 serve for an initial term of two years from the effective date of this
7 ordinance_____2012. The remaining three members appointed to Seats 1, 3, and
8 5 shall serve for an initial term of four years from the effective date of this
9 ordinance_____, 2012, and thereafter the terms of all members shall be four
10 years.

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

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

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

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

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

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

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

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: _____
18 Robert A. Bryan
19 Deputy City Attorney