

**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. Notwithstanding 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.