

S 400
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(R-2012-400)

RESOLUTION NUMBER R- 307276

DATE OF FINAL PASSAGE FEB 17 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, ACTING IN ITS CAPACITY AS THE BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, ESTABLISHING CERTAIN POLICIES AND PROCEDURES FOR THE OPERATION OF THE SUCCESSOR AGENCY.

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within fourteen designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill x1 26 (AB 26), as modified by the California Supreme Court in a final opinion issued on December 29, 2011, in litigation designated as Case No. S194861; and

WHEREAS, pursuant to Resolution No. R-307238 adopted effective January 12, 2012, the City Council of the City of San Diego (Council) designated the City to serve as the successor agency to the Former RDA and to retain the Former RDA's housing assets and assume the Former RDA's housing responsibilities, all pursuant to the dissolution provisions in Part 1.85 of AB 26 (Dissolution Provisions); and

WHEREAS, at the time of the Former RDA's dissolution, the City, in its capacity as the successor agency to the Former RDA (Successor Agency), became vested with all of the Former RDA's authority, rights, powers, duties, and obligations under the California Community Redevelopment Law and, by operation of law, received all assets, properties, contracts, leases,

books and records, buildings, and equipment of the Former RDA for administration pursuant to the Dissolution Provisions; and

WHEREAS, in the near future, a seven-member oversight board (Oversight Board) will be formed to oversee certain actions and decisions of the Successor Agency in accordance with the Dissolution Provisions; and

WHEREAS, the San Diego County Auditor-Controller (County Auditor), the State Controller, and the State Department of Finance also possess certain rights and obligations under the Dissolution Provisions with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, the Dissolution Provisions generally require the Successor Agency to administer the winding down of the Former RDA's affairs in an expeditious manner; and

WHEREAS, the Dissolution Provisions presently contemplate that the Successor Agency will take the following actions, among others: (a) adopt a comprehensive list of all enforceable obligations, known as the Enforceable Obligation Payment Schedule (EOP Schedule), together with any future amendments thereto, at a public meeting; (b) prepare the Recognized Obligation Payment Schedule (ROP Schedule) for each six-month fiscal period, on a forward-looking basis; (c) prepare an administrative budget for each six-month fiscal period; (d) perform enforceable obligations of the Former RDA; (e) pay enforceable obligations of the Former RDA to the extent identified on the EOP Schedule and the applicable ROP Schedule; (f) remit the unencumbered balances of the Former RDA's funds to the County Auditor for pro rata distribution to certain local taxing entities; (g) dispose of certain unencumbered assets and properties of the Former RDA, as directed by the Oversight Board, expeditiously and in a manner aimed at maximizing

value; and (h) oversee development of properties until the contracted work has been completed or the contractual obligations of the Former RDA can be transferred to other parties; and

WHEREAS, due to the absence of any contrary legal authority in AB 26 or any other law, the City Attorney has determined that the governance structure of the Successor Agency will be the same as the governance structure of the City as a municipal corporation, without any changes in the respective roles of the Mayor, the Council, and the City Attorney under the San Diego Charter; and

WHEREAS, the Successor Agency now desires to establish certain policies and procedures for the orderly winding down of the Former RDA's operations in accordance with the Dissolution Provisions; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, acting in its capacity as the board of the Successor Agency, as follows:

1. Official Name of Successor Agency. For all purposes, including the distribution of public notices, the execution of documents, and the filing of lawsuits and claims, the name of the Successor Agency shall be: "City of San Diego, solely in its capacity as the designated successor agency to the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic." The Successor Agency shall be entitled to the limited liability protections set forth in AB 26, as amended from time to time, including but not limited to, California Health and Safety Code section 34173(e).

2. Execution of Documents. The Mayor and his or her designee are authorized to execute any and all documents, on behalf of the Successor Agency, pursuant to the Mayor's designation of authority memorandum. Unless any applicable provision of the California Community Redevelopment Law expressly provides otherwise, the San Diego Municipal Code

and the San Diego Charter shall govern the issue of whether the execution of a particular document requires the approval of the Council. If a particular document requires the approval of the Council, then the Council shall approve and authorize the execution of such document before it is executed by the Mayor or his or her designee on behalf of the Successor Agency.

3. General Administration. The Office of the Mayor shall coordinate all administrative actions and decisions related to the Successor Agency's orderly administration and winding down of the Former RDA's operations. The Office of the Mayor shall make recommendations for approval of all matters within the purview of the Successor Agency that must be considered formally by the Council, the Oversight Board, and any other entity with supervisory or enforcement authority under the Dissolution Provisions. The Office of the Mayor also shall keep the Council and the Office of the Independent Budget Analyst reasonably apprised of all material information and updates affecting the operations of the Successor Agency. For purposes of this Resolution, the phrase "Successor Agency staff" refers to both City staff and any staff employed by any nonprofit public benefit corporation assisting with the winding down of the Successor Agency's operations.

4. Funds and Accounts. All assets and monies held by or under the control of the Successor Agency shall be maintained in funds and accounts separate and apart from both the City's general fund and the City's general assets and accounts.

5. Open and Transparent Government. All California laws aimed at ensuring open and transparent government, including but not limited to, the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974, shall apply to the activities and decisions of the Successor Agency.

6. Docketing of Items. With respect to all matters within the purview of the Successor Agency that require the Council's formal consideration, such matters shall be placed directly on the Council docket and shall not require the consideration of any standing Council Committee. The Office of the Mayor shall coordinate with the Office of the Council President and the City Clerk to ensure the timely docketing of each item to be considered by the Council, acting in its capacity as the board of the Successor Agency. Each such item shall be included in the docket or supplemental docket of the Council. The description of each such item shall clearly specify that the item will be considered by the Council, acting in its capacity as the board of the Successor Agency, with reference to the official name of the Successor Agency set forth in Paragraph 1 above. All staff reports, executive summaries, and similar documents concerning any item within the purview of the Successor Agency also shall clearly specify that the item will be considered by the Council, acting in its capacity as the board of the Successor Agency.

7. Conduct of Public Meetings. The Council shall conduct all public meetings of the Successor Agency in accordance with the Permanent Rules of Council set forth in the San Diego Municipal Code, as amended from time to time. If a particular item requires the approval of both the City as a municipal corporation and the City as Successor Agency at the same public meeting, then the item shall appear on the docket twice. The Council, acting in its capacity as the legislative body of the City as a municipal corporation, shall deliberate and vote on the item first. The Council, acting in its capacity as the board of the Successor Agency, shall then deliberate and vote on the item separately.

8. Non-Agenda Public Comment. Any member of the public may provide testimony with respect to the Successor Agency during the non-agenda public comment period during each

noticed public meeting of the Council. The Council docket shall not contain a separate category of non-agenda public comment pertaining exclusively to the Successor Agency.

9. Voting and Mayoral Veto. The adoption of all resolutions and ordinances by the Council, acting in its capacity as the board of the Successor Agency, shall be conducted in accordance with San Diego Charter sections 280 and 285, including any provisions therein pertaining to the Mayor's veto power with respect to decisions of the Council and the Council's reconsideration of any decisions that have been vetoed by the Mayor.

10. Closed Session Meetings. All closed session meetings of the Council, acting in its capacity as the board of the Successor Agency, shall be conducted in accordance with the Permanent Rules of Council set forth in the San Diego Municipal Code, as amended from time to time, and the Ralph M. Brown Act.

11. Administrative Policies. The Office of the Mayor shall implement the operations of the Successor Agency in accordance with the administrative policies and regulations of the City, as amended from time to time, unless such policies and regulations are in direct conflict with the California Community Redevelopment Law or other applicable State law.

12. Payment Schedules and Administrative Budgets. The Office of the Mayor shall direct Successor Agency staff to timely prepare and submit to the Council, for its consideration, all proposed amendments to the EOP Schedule, all proposed ROP Schedules and amendments thereto, and all six-month administrative budgets and amendments thereto required under the Dissolution Provisions.

13. Disposition of Unencumbered Assets. The Office of the Mayor shall administer any required disposition of the Former RDA's unencumbered assets, consistent with California

Health and Safety Code section 34177(e) and with all other applicable laws and regulations governing the disposition of such assets.

14. Mayoral Appointments to Oversight Board. California Health and Safety Code section 34179(a) allows the Mayor to make unilateral appointments of two members of the Oversight Board, including any future replacements of such members, and to remove any such appointed member from the Oversight Board at any time with or without cause. Yet, California Health and Safety Code section 34179(b) allows the State Governor to fill any vacant position on the Oversight Board to the extent that the position has not been initially filled by May 1, 2012, or to the extent that any position has remained vacant for more than sixty days. As a result, it is imperative that each Mayoral appointment to the Oversight Board, including any future replacements, be completed in a timely manner. The current Mayor has voluntarily agreed to modify the appointment process to include the Council's prompt consideration and ratification of the Mayor's two appointees to the Oversight Board, as follows:

(a) With respect to each Mayoral appointment to the Oversight Board (including both the original appointments and any subsequent appointment of a replacement for a departing member), the Mayor shall provide written notice to the Council identifying the Mayor's nominee and describing the qualifications of the nominee.

(b) Within fifteen days after the date of the Mayor's nomination, the Council shall consider at a noticed public meeting whether to confirm the Mayor's nominee as a member of the Oversight Board. If the Council rejects the Mayor's nomination, then the Mayor shall have the right to veto the Council's decision, and the Council shall have the right to override the Mayor's veto, in accordance with San Diego Charter sections 280 and 285. If the Council overrides the Mayor's veto with respect to a particular nominee, then the Mayor shall promptly

nominate a new proposed appointee for the Council's consideration. If the Council approves the Mayor's nomination or fails to make a decision on the Mayor's nomination within the applicable fifteen-day period, then the Mayor's nominee shall become a member of the Oversight Board. If the applicable fifteen-day period would otherwise expire during an extended legislative recess (e.g., in August or December), then such period shall be automatically extended to the first public meeting held by the Council after the conclusion of the legislative recess.

(c) Each of the Mayor's appointees to the Oversight Board shall serve at the pleasure of the Mayor and may be removed at any time by the Mayor with or without cause.

15. Coordination with Oversight Board. The Office of the Mayor shall direct Successor Agency staff to timely prepare and submit to the Oversight Board, for its consideration, all items that require the Oversight Board's approval under the Dissolution Provisions. Consistent with California Health and Safety Code section 34179(c), Successor Agency staff shall, upon the direction of the Oversight Board, assist with the public noticing and coordination of all meetings of the Oversight Board, and all related costs and expenses to be incurred by the Successor Agency shall be included in each applicable administrative budget of the Successor Agency.

16. Agent for Service of Process. The Successor Agency's agent for service of process shall be the City Clerk. In addition, all claims for monetary damages or recovery against the Successor Agency under the California Government Claims Act shall be filed in a timely manner with the City's Risk Management Department, using the same form and procedure applicable to the City. The City Clerk shall be the designated recipient of all requests made under the California Public Records Act with respect to any documents within the possession of the Successor Agency. A copy of any complaints, petitions, claims, requests for public records,

and similar legal documents filed with respect to the Successor Agency shall be promptly forwarded by the recipient to the Office of the Mayor and the Office of the City Attorney.

17. Severability. Each provision of this Resolution is independent and severable from every other provision of this Resolution. If any provision of this Resolution is determined to be invalid or unenforceable in any respect, such determination shall not affect the validity or enforceability of any other provision of this Resolution.

18. Future Amendments. This Resolution may be amended or superseded at any time by a future vote of the Council, subject to the Mayor's veto power under the San Diego Charter.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch
Kevin Reisch
Deputy City Attorney

KR:hm
02/09/2012
Or.Dept:Mayor
Document No. 318329

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~FEB 18~~ **FEB 18 2012**

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 2.17.12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor