

OAKLAND OVERSIGHT BOARD

MEMORANDUM

TO: Oakland Oversight Board

FROM: Fred Blackwell &
Gregory Hunter

SUBJECT: Informational Report:
Creation of Oakland Redevelopment
Successor Agency per AB1484

DATE: July 16, 2012

ITEM: #6

EXECUTIVE SUMMARY

The original redevelopment dissolution legislation, Assembly Bill x1 26 ("ABx1 26"), provided that a city may elect to serve as successor agency to its dissolved redevelopment agency. The recently-enacted redevelopment trailer bill, Assembly Bill 1484 ("AB 1484"), amends ABx1 26 to, among other things, provide that successor agencies are separate public entities from the sponsoring cities and counties. The City is therefore required to establish a new entity separate from the City that will take over the role of successor to the former Redevelopment Agency -- the Oakland Redevelopment Successor Agency ("Successor Agency" or "ORSA"). This action was considered by the City Council's Community and Economic Development Agency on July 10 and is expected to be approved on Tuesday, July 17, 2012, by the full City Council. In addition to establishing the Successor Agency, the legislation: 1) provides for the Successor Agency to accept all assets, rights, duties, and obligations of the former Redevelopment Agency from the City; 2) ratifies all actions taken by the City previously acting in the role of successor agency; 3) establishes the governing board of the Oakland Redevelopment Successor Agency to be the members of the City Council; 4) establishes officers consistent with the City governing structure; and 5) provides that ORSA will follow all of the administrative practices of the City, unless state or federal law provides otherwise, and except for disposition of real estate, which may be authorized by ORSA resolution rather than ordinance.

BACKGROUND/LEGISLATIVE HISTORY

On January 10, 2012, the City Council adopted Resolution Nos. 83679 C.M.S. and 83680 C.M.S., electing to become the successor agency to the Redevelopment Agency upon Agency dissolution, and to become the housing successor agency upon Agency dissolution. On February 1, 2012, the Redevelopment Agency was dissolved.

On June 27, 2012 the Legislature of the State of California passed AB 1484, which modified among other things the requirements for setting up a successor agency.

ANALYSIS

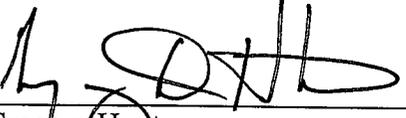
AB 1484 modifies various sections of the California Health and Safety Code with regards to the dissolution of redevelopment agencies. There are significant changes to the scope and operations of successor agencies, review and approval of Recognized Obligations Repayment Schedules (ROPS), affordable housing assets, oversight board operations, use of bond proceeds, and distribution of former RDA assets. Under AB 1484, Health and Safety Code Section 34173(g) now provides that the successor agency must be a separate public entity from the former redevelopment agency's sponsoring city:

(g) A successor agency is a separate public entity from the public agency that provides for its governance and the two entities shall not merge. The liabilities of the former redevelopment agency shall not be transferred to the sponsoring entity and the assets shall not become assets of the sponsoring entity. A successor agency has its own name, can be sued, and can sue. All litigation involving a redevelopment agency shall automatically be transferred to the successor agency. The separate former redevelopment agency employees shall not automatically become sponsoring entity employees of the sponsoring entity and the successor agency shall retain its own collective bargaining status. As successor entities, successor agencies succeed to the organizational status of the former redevelopment agency, but without any legal authority to participate in redevelopment activities, except to complete any work related to an approved enforceable obligation. Each successor agency shall be deemed to be a local entity for purposes of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

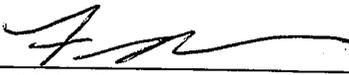
In conformance with this new governing structure, the City Council is currently considering a resolution establishing a new public entity, the "Oakland Redevelopment Successor Agency", and transferring assets and obligations held by the City as former successor agency to the new entity (except for housing assets, which were transferred to the City as successor housing agency). This is expected to be adopted on July 17, 2012. Consistent with the governing structure of the former Redevelopment Agency, the City Council would act as governing board of ORSA, the Mayor would be Chief Executive Officer, the Council President would be a Chairperson, the City Administrator would be Administrator, the City Clerk would be Secretary, the Director of Finance would be Treasurer, and the City Attorney would be General Counsel. The resolution would waive any conflict of interest for the City Attorney acting in her roles as legal counsel to the City and as General Counsel to the ORSA. The resolution would ratify actions to date taken by the City acting as successor agency since dissolution, which includes approval of the Recognized Obligations Payment Schedules ("ROPS"), administrative budgets and acceptance of four Proposition 1-C Grants (two for MacArthur Transit Village and one each for Coliseum Transit Village and Uptown). Finally, the resolution would provide that ORSA follow the same administrative rules and procedures as the City, including rules related to contracting, acquisition and disposition of real property, personnel, fund management, legislative action, open meetings, public records, and conflicts of interest, except if state or federal law provide for different rules or procedures. Also, disposition of real estate by ORSA may be authorized by ORSA resolution rather than ordinance (even though the City charter requires an ordinance whenever the City disposes of real property).

Attached are the resolutions City Council is expected to adopt July 17, 2012 for your reference.

Respectfully submitted,



Gregory Hunter
Office of Neighborhood Investment



Fred Blackwell,
Assistant City Administrator

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2012 JUL -5 PM 2:25

APPROVED AS TO FORM AND LEGALITY

By: [Signature]
Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION ESTABLISHING THE OAKLAND REDEVELOPMENT SUCCESSOR AGENCY AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND AND PROVIDING FOR ITS GOVERNANCE

WHEREAS, ABx1 26 was enacted by the state legislature and signed by the governor as of June 29, 2011; and

WHEREAS, ABx1 26 dissolved redevelopment agencies; and

WHEREAS, California Health and Safety Code Sections 34171(j) and 34173, added by ABx1 26, originally provided that a city that authorized the creation of a redevelopment agency will serve as the successor agency to the redevelopment agency, unless the city elects not to serve as the successor agency; and

WHEREAS, on January 10, 2012, the City Council adopted Resolution No. 63679 C.M.S. electing for the City of Oakland to serve as successor agency to the Redevelopment Agency of the City of Oakland upon Redevelopment Agency dissolution, and the City has been serving in this role following Redevelopment Agency dissolution on February 1, 2012; and

WHEREAS, AB 1484, enacted on June 27, 2012 amended ABX1 26 to provide that successor agencies are separate public entities from their sponsoring cities; and

WHEREAS, the City of Oakland wishes to establish and acknowledge the Oakland Redevelopment Successor Agency as the successor agency to the Redevelopment Agency of the City of Oakland under ABx1 26, as amended, separate and distinct from the City, and provide for its governance; now, therefore, be it

RESOLVED: That the City Council hereby establishes and acknowledges the "Oakland Redevelopment Successor Agency" as the successor agency to the Redevelopment Agency of the City of Oakland under California Health and Safety Code Sections 34171(j) and 34173 as amended; and be it further

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COMMUNITY & ECONOMIC DEVELOPMENT CMTE.

JUL 10 2012

RESOLVED: That the Oakland Redevelopment Successor Agency shall be a separate public entity from the City of Oakland; and be it further

RESOLVED: That the members of the City Council of the City of Oakland shall act as members of the governing board of the Oakland Redevelopment Successor Agency; and be it further

RESOLVED: That the officers of the Oakland Redevelopment Successor Agency shall be as established by the Oakland Redevelopment Successor Agency's governing board; and be it further

RESOLVED: That the City of Oakland hereby transfers the authority to exercise all functions and powers of a successor agency under law, and all rights, duties, and obligations of a successor agency under law, to the Oakland Redevelopment Successor Agency; and be it further

RESOLVED: That the City of Oakland hereby transfers control of all assets, properties, contracts, leases, books and records, buildings and equipment, cash and cash equivalents, and accounts receivable of the former Redevelopment Agency of the City of Oakland (other than housing assets transferred to the successor housing agency under California Health and Safety Code Section 34176) transferred to the City of Oakland as original successor agency, to the Oakland Redevelopment Successor Agency; and be it further

RESOLVED: That the City of Oakland hereby pledges its support and cooperation to the Oakland Redevelopment Successor Agency, including the use of City officers, personnel, facilities, and other resources to support the Oakland Redevelopment Successor Agency's governance and operations, and be it further

RESOLVED: That the City of Oakland hereby waives any conflict of interest between the City Attorney's representation of the City of Oakland and the City Attorney's representation of the Oakland Redevelopment Successor Agency as its General Counsel; and be it further

RESOLVED: That the City Council finds that this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) (organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment) and CEQA Guidelines Section 15061(b)(3) (no potential for significant effect on the environment); and be it further

RESOLVED: That the City Administrator and his or her designees are hereby authorized to take whatever action is necessary with respect to the establishment, governance, and operations of the Oakland Redevelopment Successor Agency consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2012

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF,
AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

Latonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

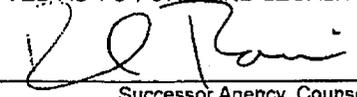
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DEVELOPMENT CMTE.

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REVISED July 10, 2012

APPROVED AS TO FORM AND LEGALITY

By: 

Successor Agency Counsel

OAKLAND REDEVELOPMENT SUCCESSOR AGENCY

RESOLUTION NO. 2012- _____

A RESOLUTION ESTABLISHING THE OAKLAND REDEVELOPMENT SUCCESSOR AGENCY, DESIGNATING OFFICERS, AND ADOPTING ADMINISTRATIVE, GOVERNANCE, AND OPERATING RULES

WHEREAS, ABx1 26 was enacted by the state legislature and signed by the governor as of June 29, 2011; and

WHEREAS, ABx1 26 dissolved redevelopment agencies; and

WHEREAS, California Health and Safety Code Sections 34171(j) and 34173, added by ABx1 26, originally provided that a city that authorized the creation of a redevelopment agency will serve as the successor agency to the redevelopment agency, unless the city elects not to serve as the successor agency; and

WHEREAS, on January 10, 2012, the Oakland City Council adopted Resolution No. 83679 C.M.S. electing for the City of Oakland to serve as successor agency to the Redevelopment Agency of the City of Oakland upon Redevelopment Agency dissolution, and the City has been serving in this role following Redevelopment Agency dissolution on February 1, 2012; and

WHEREAS, AB 1484, enacted on June 27, 2012, amended ABX1 26 to provide that successor agencies are separate public entities from their sponsoring cities; and

WHEREAS, the City Council has adopted a resolution establishing the Oakland Redevelopment Successor Agency as a separate public entity from the City to serve as successor agency to the Redevelopment Agency of the City of Oakland, providing for its governance, and transferring the City's responsibilities as successor agency and assets

held in the name of the successor agency to the Oakland Redevelopment Successor Agency; now, therefore, be it

RESOLVED: That the "Oakland Redevelopment Successor Agency" is hereby established to be the successor agency to the Redevelopment Agency of the City of Oakland pursuant to California Health and Safety Code Sections 34171(j) and 34173; and be it further

RESOLVED: That the Oakland Redevelopment Successor Agency, also referred to herein as the "Successor Agency", shall have the authority to exercise all functions and powers of a successor agency under law, and shall retain all rights, duties, and obligations of a successor agency under law; and be it further

RESOLVED: That the Oakland Redevelopment Successor Agency hereby accepts control of all assets, properties, contracts, leases, books and records, buildings and equipment, cash and cash equivalents, and accounts receivable of the former Redevelopment Agency of the City of Oakland (other than housing assets transferred to the successor housing agency under California Health and Safety Code Section 34176) transferred to the City of Oakland as original successor agency; and be it further

RESOLVED: That the Oakland Redevelopment Successor Agency hereby ratifies and confirms all of the actions taken by the City of Oakland acting in its role as successor agency to the Redevelopment Agency of the City of Oakland following dissolution of the Redevelopment Agency, including the following Council actions: approval of Recognized Obligations Payment Schedules ("ROPS") and administrative budgets for the successor agency for January/February through June 2012 and for July through December 2012, and acceptance of four Proposition 1-C Grants (two for MacArthur Transit Village and one each for Coliseum Transit Village and Uptown); and assumes all obligations entered into by the City of Oakland as successor agency and releases the City from any further obligations; and be it further

RESOLVED: That the governing board of the Oakland Redevelopment Successor Agency shall consist of the members of the City Council of the City of Oakland; and be it further

RESOLVED: That the officers of the Oakland Redevelopment Successor Agency shall be a Chief Executive Officer, a Chairperson, an Administrator, a Secretary, a Treasurer, and a General Counsel; and be it further

RESOLVED: That the Chief Executive Officer shall be the Mayor of the City of Oakland, who shall give direction to the Administrator and shall submit such recommendations and information to the Successor Agency governing board as he or she may consider proper concerning the business, affairs, and policies of the Successor Agency; and be it further

RESOLVED: That the Chairperson shall be the President of the City Council of the City of Oakland, who shall preside at all meetings of the Successor Agency governing board; and be it further

RESOLVED: That the Administrator shall be the City Administrator of the City of Oakland, who, under the direction of the Chief Executive Officer, shall serve as administrative chief of the Successor Agency; and be it further

RESOLVED: That the Administrator shall have control and responsibility for the execution of the Successor Agency's policies and the administration of its affairs, under the direction of the Chief Executive Officer, and the fulfillment of such other duties as from time to time the Chief Executive Officer or the Successor Agency governing board may impose on him or her; and be it further

RESOLVED: That at each meeting of the Agency governing board, the Administrator shall supply board members with such information and make such recommendations as shall be necessary to effect the purposes of the Successor Agency and for the proper administration of its affairs; and be it further

RESOLVED: That the Administrator or his or her designee shall have the authority to execute all contracts and documents on behalf of the Successor Agency upon prior authorization of the Successor Agency governing board; and be it further

RESOLVED: That the Secretary shall be the Clerk of the City of Oakland, who shall keep the records of the Successor Agency and shall perform such other duties as from time to time the Successor Agency may impose on him or her; and be it further

RESOLVED: That the Treasurer shall be the Director of Finance of the City of Oakland, who shall be responsible for ascertaining that all funds of the Successor Agency are deposited in the name of the Successor Agency in such bank or banks, or in the Treasury of the City of Oakland, as the Successor Agency may select, shall sign all checks issued by the Successor Agency, and shall perform such other duties as from time to time the Successor Agency may impose on him or her; and be it further

RESOLVED: That the General Counsel shall be the City Attorney of the City of Oakland, who shall provide all legal services for the Successor Agency, and shall employ other legal counsel and expert services necessary for the handling of any pending or proposed litigation, proceeding, or other legal matter; and be it further

RESOLVED: That the Successor Agency hereby waives any conflict of interest between the City Attorney's representation of the Successor Agency as its General Counsel and the City Attorney's representation of the City of Oakland; and be it further

RESOLVED: That the Successor Agency governing board may from time to time authorize the Administrator to employ such personnel as it deems necessary to exercise its powers, duties, and functions as prescribed by applicable law; and be it further

RESOLVED: That the Successor Agency and its governing board and officers shall follow the same rules and procedures for Successor Agency administrative activities and operations, including rules related to contracting, acquisition and disposition of real property, personnel, fund management, legislative action, open meetings, public records, and conflicts of interest as those followed by the City of Oakland, as set forth in applicable Charter provisions, resolutions, ordinances, administrative instructions, and regulations, except if and to the extent state or federal law provide for different rules or procedures; however, notwithstanding the above, the sale, lease or other disposition of real property by the Successor Agency pursuant to California Health and Safety Code Sections 34177(e) or 34191.5, or other provision of ABx1 26 as amended, shall require only a resolution, not an ordinance; and be it further

RESOLVED: That the Successor Agency finds that this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) (organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment) and CEQA Guidelines Section 15061(b)(3) (no potential for significant effect on the environment).

BY SUCCESSOR AGENCY, OAKLAND, CALIFORNIA, _____, 2012

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF,
AND CHAIRPERSON REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
Latonda Simmons
Secretary of the Oakland
Redevelopment Successor Agency