

RESOLUTION NO. 1-2012

RESOLUTION SELECTING THE CITY ATTORNEY FOR THE CITY AND COUNTY OF SAN FRANCISCO AS LEGAL COUNSEL FOR THE OVERSIGHT BOARD FOR THE CITY AND COUNTY OF SAN FRANCISCO (SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO), AND WAIVING ANY POTENTIAL CONFLICTS THAT MAY ARISE FROM THE CITY ATTORNEY'S CONCURRENT REPRESENTATION OF THE OVERSIGHT BOARD AND THE CITY AND COUNTY OF SAN FRANCISCO.

WHEREAS, Under Assembly Bill No. X1 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, the Redevelopment Agency of the City and County of San Francisco (the "Agency"), together with all other redevelopment agencies in the State of California, dissolved by operation of law on February 1, 2012; and,

WHEREAS, Consistent with AB 26, on January 24, 2012 the City's Board of Supervisors approved and on January 26, 2012 the Mayor signed Resolution No. 11-12 (the "Board of Supervisors Resolution"), providing for the City to become the successor agency of the Agency, and to acquire its housing and non-housing assets, funds and enforceable obligations, and to fulfill its duties as successor agency to the Agency under AB 26; and,

WHEREAS, Upon the Agency's dissolution, the City, as successor agency to the Agency under AB 26 and the Board of Supervisors Resolution, assumed the former Agency's assets and the duty to pay and perform "enforceable obligations" of the Agency (including bonds and other indebtedness, loans, judgments and settlements, contracts and certain other obligations, all as more particularly defined in AB 26), subject to the terms, conditions and limitations set forth in AB 26. Those enforceable obligations of the Agency became the obligations of the City, as the Agency's successor agency, but such obligations are payable only from the property tax revenues (former tax increment) or other revenue sources that would have been allocated or payable to the Agency or otherwise originally secured such obligations of the Agency. AB 26 expressly limits the liabilities of a successor agency in performing duties under AB 26 to the amount of property tax revenues received by such successor agency under AB 26 (generally equal to the amount of former tax increment received by the former redevelopment agency) and the assets of the former redevelopment agency. Accordingly, AB 26 does not make any general funds of the City responsible or available to pay for or perform any of the Agency's enforceable obligations that the City has assumed. And no general fund revenues of the City are pledged to the repayment of any debt of the Agency, nor does AB 26 obligate the City's general fund to repay any such debt; and,

WHEREAS, AB 26 places successor agencies' performance of their duties under the supervision of newly established oversight boards, which are separate from the

local legislative bodies and which will oversee the fiscal management of future successor agency activities regarding the enforceable obligations. In performing their functions required under AB 26, the oversight boards owe fiduciary responsibilities to the holders of enforceable obligations and the taxing entities entitled to the distribution of property tax revenues under AB 26. Some actions by the oversight boards and successor agencies are also subject to discretionary review by the State Department of Finance under AB 26; and,

WHEREAS, AB 26 provides a special rule for the City, as a combined city and county, relating to the oversight board that the act requires the City as successor agency to create. (California Health and Safety Code section 34179.) Under AB 26, the City controls a majority of the Board. The City's Mayor appoints four of the seven members to the Board, subject to confirmation by the City's Board of Supervisors. One of those four members must represent the largest group of former Agency employees. BART, the Superintendent of Schools and the State Chancellor of the Community College Districts each appoints one of the remaining three members. A majority (i.e., four members) constitutes a quorum of the Board, and the Board acts by majority vote; and,

WHEREAS, The City has established this Board consistent with the requirements of AB 26; and,

WHEREAS, In addition to the duties that AB 26 places on the Board, the City delegated to the Board, through the Board of Supervisors Resolution, certain authority and responsibility that the Commission of the former Agency exercised to implement three major approved development projects consistent with the integrated set of enforceable obligations governing them: (1) the Mission Bay North and the Mission Bay South Project Areas (collectively "Mission Bay"), (2) Phases One and Two of the Hunters Point Shipyard Project Area and Zone 1 of the Bayview Hunters Point Project Area (collectively, "Hunters Point Shipyard/Candlestick Point"), and (3) certain parts of the Transbay Transit Center Project Area, including Zone 1 ("Transbay"). The three major approved projects are referred to as the "Major Development Projects;" and,

WHEREAS, The City Attorney has extensive expertise in a broad range of the many areas of law affecting the Board. The City Attorney is well positioned to provide the highest quality and most cost effective and efficient legal services the Board needs to perform its duties under AB 26 and its implementation role for the Major Approved Development Projects under the Board of Supervisors Resolution; and,

WHEREAS, The Board acknowledges that under the City's Charter the City Attorney is the legal advisor to the City and its purpose is to provide legal representation to the City. The Board is willing to waive any potential conflicts that may arise as a result of the City Attorney's concurrent representation of the City and the Board, which in turn owes a fiduciary duty to the holders of enforceable obligations and to all of the constituent taxing entities; and,

WHEREAS, The City Attorney wishes to provide its services, and the Board wishes to retain the City Attorney, on the terms and conditions set forth in the memorandum of understanding on file with the Secretary of the Board (the "MOU"), incorporated herein by this reference; and, now therefore, be it

RESOLVED, That the Oversight Board authorizes the retention of the City Attorney of the City and County of San Francisco as legal counsel to the Oversight Board, and authorizes the Executive Director of the Oversight Board to execute an agreement substantially in the form of the MOU, retaining the City Attorney and waiving any potential conflicts that may arise as a result of the City Attorney's concurrent representation of the City and County of San Francisco and the Board.

I hereby certify that the foregoing resolution was adopted by the Oversight Board at its meeting of March 6, 2012


Board Secretary