

RESOLUTION NO. 4-2012

RESOLUTION URGING THE MAYOR AND CITY DEPARTMENTS TO USE THE KNOWLEDGE, EXPERIENCE AND SKILLS OF THE EMPLOYEES OF THE FORMER REDEVELOPMENT AGENCY BY CONTINUING TO EMPLOY THEM IN A SEPARATE ORGANIZATIONAL UNIT IN THE CITY ADMINISTRATOR'S OFFICE TO HELP PERFORM THE DUTIES OF THE CITY AS SUCCESSOR AGENCY, ALL SUBJECT TO AVAILABILITY OF FUNDS, AND TO THE EXTENT IT APPLIES WITHIN THE 5% CAP OF AB 26 AND ANY OTHER BUDGETARY AND FISCAL CONSTRAINTS OF THE CITY, AND FURTHER URGING EMPLOYEES OF THE FORMER AGENCY WHO CANNOT BE RETAINED TO PERFORM SUCCESSOR AGENCY FUNCTIONS UNDER AB 26 TO USE ALL RESOURCES THE CITY HAS MADE AVAILABLE TO THEM TO SEEK EMPLOYMENT WITH THE CITY TO PERFORM OTHER FUNCTIONS CONSISTENT WITH THEIR KNOWLEDGE, EXPERIENCE AND SKILLS, SUBJECT TO DEPARTMENTAL NEEDS, AVAILABILITY OF POSITIONS AND FUNDS, AND APPLICABLE CIVIL SERVICE REQUIREMENTS.

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 rights and duties as successor agency to the Agency under AB 26; and,

WHEREAS, AB 26 places successor agencies' performance of their statutory 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 these functions under AB 26, the oversight boards owe fiduciary responsibilities to the holders of enforceable obligations and the taxing entities entitled to distribution of property tax revenues under AB 26; and,

WHEREAS, Under AB 26, upon the Agency's dissolution on February 1, 2012 the employees of the former Agency became employees of the City as successor agency, subject to existing memoranda of understanding. AB 26 treats the Agency's existing labor agreements as enforceable obligations that the City as successor agency must continue to honor. The act does not affect the City's ability as successor agency to exercise rights the Agency would have otherwise had under existing memoranda of understanding (MOUs). The Agency's existing MOUs expire on March 31, 2012; and,

WHEREAS, AB 26 limits the amount of tax revenues from redevelopment project areas (former tax increment) that the City as successor agency can use to pay administrative expenses, including salaries, in performing its duties under the act. Generally, AB 26 limits those administrative expenses to 5% of the tax revenues allocated to the City as successor agency for fiscal year 2011/2012 and 3% of the

tax revenues allocated in each subsequent year. AB 26 does not prohibit the City as successor agency from using funds other than such tax revenues to pay administrative expenses above the cap. The State Department of Finance has issued written guidance interpreting AB 26's limitation on administrative expenses to apply only to administrative staff and related expenses funded with property tax revenues. The Department of Finances has stated that employees funded with bond proceeds or other project funds do not count against this limit, nor do employees funded from rents or other revenues or grants. The Department of Finance has further stated that generally employees working on specific project implementation activities such as construction inspection, project management or actual construction would not be viewed as "administrative" and their costs would not count against the limit (See http://www.dof.ca.gov/assembly_bills_26-27/view.php, Exhibit 4, Q&A re common dissolution issues); and,

WHEREAS, In addition to the duties that AB 26 places on this Oversight Board, the City delegated to this Oversight Board, through the Board of Supervisors Resolution, land use, development and design approval authority 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 "Major Approved Development Projects"); and,

WHEREAS, To ensure the performance of enforceable obligations for the Major Approved Development Projects, the Board of Supervisors Resolution authorized the Director of Administrative Services to provide staff support to the Oversight Board, consistent with the authority previously exercisable by the former Agency's executive director or staff under redevelopment plans or enforceable obligations or the authority otherwise provided under the California Community Redevelopment Law, as amended by AB 26; and,

WHEREAS, For the Major Approved Development Projects—Mission Bay, Hunters Point Shipyard/Candlestick Point, and Transbay—the developer in the case of the first two projects and the Transbay Joint Powers Authority in the case of Transbay, is contractually obligated to reimburse the City for its costs, and as a result the AB 26 cap on administrative expenses does not constrain City staff expenses in implementing these projects; and,

WHEREAS, Employees of the former Agency have been involved in implementing the Major Approved Development Projects and performing other activities of the former Agency relating to enforceable obligations that the City as successor agency is now responsible for under AB 26; and,

WHEREAS, Layoff notices have been issued to former Agency employees under applicable MOUs; and,

WHEREAS, The State Department of Finance has issued written guidance stating that AB 26 does not require successor agencies to retain any redevelopment employees (See http://www.dof.ca.gov/assembly_bills_26-27/view.php, Exhibit 4, Q&A re common dissolution issues); and,

- WHEREAS, The recognized representatives for the employees of the former Agency and the City are engaged in negotiations for new MOUs; and,
- WHEREAS, Under the City's Charter, the City's Mayor and Board of Supervisors have authority to determine in the annual salary ordinance the number and classes of positions that each City department may employ and in the annual appropriations ordinance how much money to appropriate to fund those positions, and City departments have authority to determine whether to fill those positions consistent with applicable City civil service and other requirements; and,
- WHEREAS, While this Oversight Board does not have authority under AB 26 or the Board of Supervisors Resolution to direct the hiring of particular staff or to approve new MOUs, AB 26 grants this Oversight Board the authority to approve the City's payment of enforceable obligations, including payments required under binding MOUs, and to approve the City's establishment of an administrative budget to perform its statutory functions as successor agency, and AB 26 also authorizes this Oversight Board to direct staff of the City as successor agency, through the Executive Director to this Oversight Board, to perform work in furtherance of its duties and responsibilities under the act; and,
- WHEREAS, This Oversight Board has an interest in making sure that as successor agency the City complies with AB 26 and also implements the Major Approved Development Projects successfully in accordance with the Board of Supervisors Resolution; and,
- WHEREAS, While this Oversight Board recognizes that the City's duties as successor agency are more limited than the functions the Agency performed before its dissolution and that AB 26, particularly after the end of the current fiscal year, limits administrative expenses that may be paid from property tax revenues, this Oversight Board believes the employees of the former Agency could provide important services to the City as successor agency in performing its duties under AB 26, based on their knowledge, skills and experience; and,
- WHEREAS, This Oversight Board also believes that the employees of the former Agency have knowledge, skills and experience that could be valuable to other City departments in the duties they perform; and, now therefore, be it
- RESOLVED, That this Oversight Board urges the Mayor and departments of the City to use the knowledge, experience and skills of the employees of the former Agency by continuing to employ them in a separate organizational unit in the City Administrator's Office to help perform the duties of the City as successor agency, all subject to availability of funds, and to the extent it applies within the 5% cap of AB 26 and any other budgetary and fiscal constraints of the City; and, be it further
- RESOLVED, That to the extent that the City as successor agency cannot employ such former redevelopment employees, this Oversight Board urges the City to use all resources that the City has available to assist employees to seek employment with City agencies to perform other functions for the City consistent with their knowledge, experience and skills, subject to departmental needs, availability of positions and funds, and applicable civil service requirements and that no former agency employee shall be laid off sooner than sixty (60) days after being notified that their current layoff notice is not being rescinded.

I hereby certify that the foregoing resolution was adopted by the Oversight Board at its special meeting of March 12, 2012

Board Secretary