INFORMATIONAL MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Tiffany Bohee
Executive Director

SUBJECT: Redevelopment Agency Policies Applicable to the Successor Agency

EXECUTIVE SUMMARY

When state law dissolved the San Francisco Redevelopment Agency ("Redevelopment Agency") on February 1, 2012, the Redevelopment Agency policies ("Agency Policies") that governed existing contracts and obligations did not similarly dissolve. Many of the enforceable obligations that had been approved prior to the Redevelopment Dissolution Law explicitly incorporated the Agency Policies as the standards for the Redevelopment Agency, its successor, and contractor to follow in fulfilling the terms of the contract. The Agency Policies cover a wide variety of subjects and in many respects are similar to the laws and policies of the City and County of San Francisco ("City"). The Agency Policies, however, are not exactly the same as City laws and in some cases are significantly different.

As a state-authorized local entity that was separate from the City, the Redevelopment Agency had the authority to adopt its own policies consistent with its redevelopment mission. The Successor Agency and its new Commission assume the former Redevelopment Agency's responsibilities, which include both the authority and the obligation to implement Agency Policies. Furthermore, the Successor Agency has the authority to adopt or amend policies to the extent that the action is consistent with enforceable obligations and with the narrow authority of successor agencies under Redevelopment Dissolution Law to wind down redevelopment affairs. Attached to this memorandum are the Policies that are now applicable to the Successor Agency.

DISCUSSION

Under California Community Redevelopment Law, redevelopment agencies were governmental entities that existed by virtue of state law and were separate and distinct from the communities in which they existed. Section 33100 of the California Health and Safety Code\(^1\) states: "There is in each community a public body, corporate and politic, known as the redevelopment agency of the community." Section 33125 states that "[a]n agency may: (a) Sue and be sued. . . . (c) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers. (d) Make, amend, and repeal bylaws and regulations not inconsistent with, and to carry into effect, the powers and purposes of this part."

Over its 60+ years, the Redevelopment Agency adopted numerous Agency Policies governing a range of issues including, among others, contracting and procurement, public records, personnel,

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\(^1\) All subsequent statutory references are to the California Health and Safety Code unless otherwise noted.
investments, and nondiscrimination. Some of the Agency Policies replicate City law, e.g. public records; other Agency Policies establish separate requirements from the City, but are consistent with the purposes of local laws, e.g. contracting and procurement. Consistent with its state law authority, the Redevelopment Agency Commission adopted and revised Agency Policies as necessary. Some of the Agency Policies are incorporated into continuing contractual obligations that the Redevelopment Agency entered into with master developers and that require the developers’ compliance with the Agency Policies over the life of a multi-year project. E.g. Mission Bay South Owner Participation Agreement by and between the Redevelopment Agency and Catellus Development Corporation (Nov. 16, 1998); Disposition and Development Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyard) by and between the Redevelopment Agency and CP Development Co., LP (Oct. 29, 2010).

On June 28, 2011, when the state law dissolving redevelopment agencies was adopted, it immediately suspended the activities of redevelopment agencies except for making payments due, enforcing covenants and performing their obligations under bonds and other “enforceable obligations.” Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26"). On February 1, 2012, when state law finally dissolved redevelopment agencies, AB 26 provided limited authority to successor agencies to fulfill the enforceable obligations of the former redevelopment agencies. AB 26 describes the legislature’s intent as “requir[ing] successor agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies and to provide the successor agencies with limited authority that extends only to the extent needed to implement a winddown of redevelopment agency affairs.” AB 26, § 1 (j)(4). AB 26 thus allows successor agencies to exercise state authority for the limited purpose of taking actions to complete projects that were required under pre-existing enforceable obligations.²

In June 2012, the state legislature clarified the authority of successor agencies in Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12) (“AB 1484”). It established that successor agencies—similar to the former redevelopment agencies—were “a separate public entity” from the cities and counties that had originally formed the redevelopment agencies.³

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

² Section 34189 (b) of the California Health and Safety Code states “[t]o the extent that [a prior provision of the Community Redevelopment Law] conflicts with this part [i.e. Redevelopment Dissolution Law], the provisions of this part shall control. Further, if a provision of [Community Redevelopment Law] provides an authority that [Redevelopment Dissolution Law] is restricting or eliminating, the restriction and elimination provisions of the [Redevelopment Dissolution Law] shall control.” [emphasis added]
³ AB 26 had originally transferred the state authority to the cities and counties that had initially created (or sponsored) redevelopment agencies, but later the legislature clarified, in AB 1484, that successor agencies were separate from the cities and counties.
redevelopment activities, except to complete any work related to an approved enforceable obligation. [emphasis added]

Cal. Health & Safety Code § 34173 (g). AB 1484 thus confirmed that successor agencies exist by virtue of state law, are separate and distinct from the communities in which they exist, and succeed to the organizational status of the former redevelopment agency.

In Ordinance No. 215-12 (Oct. 4, 2012), the Board of Supervisors of the City and County of San Francisco ("Board of Supervisors") implemented AB 1484. The ordinance provides, among other things, that the newly-appointed Commission shall “act in the place of the former commission of the dissolved Redevelopment Agency to implement, modify, enforce and complete the surviving redevelopment projects,” approve contracts and actions related to the Successor Agency’s assets, and “take any action that the Redevelopment Dissolution Law requires or authorizes on behalf of the Successor Agency and any other action that the Commission deems appropriate consistent with the Redevelopment Dissolution Law to comply with such obligations.” Ordinance No. 215-12, Section 6 (a). This succinct statement of authority confirms the Successor Agency’s role in assuming the “organizational status of the former redevelopment agency,” as required by AB 1484, within the context of completing enforceable obligations.

To assist you in fulfilling the above-described responsibilities, attached to this memorandum are significant Agency Policies that will guide your future actions.

(originated by Jim Morales, Deputy Director)

Tiffany Bohee
Executive Director

Attachments:

1. By-Laws of the Redevelopment Agency of the City and County of San Francisco
2. Adopting a Redevelopment Agency Commissioner Attendance Policy
3. Adopting the Mayor’s Policy on Discriminatory or Harassing Remarks made at Public Meetings
4. Statement of Incompatible Activities
5. Adopting Policy for the Disclosure of Outside Communications by Agency Commissioners and Officers on Matters pending before the Agency Commission
6. Public Records Policy
7. Personnel Policy
8. Establishing Classifications of Positions and Compensation for the Agency Staff and Establishing Authority for Appointment to and Vacation from Positions under said Classifications and other Matters.

9. Memoranda of Agreement with Bargaining Units (2009-2011) and amendments
   a. Local 21 (Management/Supervisory Unit)
   b. Local 21 (Engineers & Architects Unit)
   c. Local 21 (Professional/Technical Unit)
   d. Local 1021

10. Purchasing Policy

11. Small Business Enterprise Policy

12. Adopting an Employment and Contracting Policy for the Bayview Hunters Point Redevelopment Project Area; Bayview Hunters Point Redevelopment Project Area

13. Approving a Nondiscrimination in Contracts and Equal Benefits Policy

14. Amended Minimum Compensation Policy

15. Amended Health Care Accountability Policy

16. Card Check Neutrality Policy

17. Agency Permit to Enter ("License") Policy

18. Debt Policy

19. Statement of Investment Policy

20. Approval of the Amended and Restated Local Goals and Policies for Community Facilities Districts for the Agency for the Purpose of: 1) Satisfying the Minimum Requirements of the Mello-Roos Community Facilities Act of 1982; and 2) Establishing Appropriate Policies with Respect to the Formation of Community Facilities Districts; All Redevelopment Project Areas