

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 33-2015

Approved June 2, 2015

**ADOPTING PROCEDURES FOR FILING OF APPEALS OF THE CERTIFICATION
OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR ENVIRONMENTAL
LEADERSHIP DEVELOPMENT PROJECTS UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

- WHEREAS, Prior to its dissolution, the Redevelopment Agency of the City and County of San Francisco (“Redevelopment Agency”) implemented numerous redevelopment plans approved by the Board of Supervisors and authorized under the California Community Redevelopment Law, Cal. Health & Safety Code §§ 33000 et seq. Under this state authority, the redevelopment plans established land use controls in project areas and did not generally rely on the San Francisco Planning Code or other local land use regulation, including Article 31 of the Administrative Code, unless a particular redevelopment plan required it; and
- WHEREAS, State law dissolved the Redevelopment Agency on February 1, 2012, (Part 1.85 of the California Health and Safety Code (commencing with Section 34170)) (the “Redevelopment Dissolution Law”), and provided, among other things, that successor agencies assumed the rights and obligations of the former Redevelopment Agency (with the exception of certain affordable housing assets). In particular, state law requires successor agencies to fulfill enforceable obligations that the former redevelopment agencies had entered into prior to June 28, 2011 (“Enforceable Obligations”); and
- WHEREAS, The Board of Supervisors, in its capacity as governing body of the Successor Agency, approved Ordinance No. 215-12 (Oct. 4, 2012) to implement Redevelopment Dissolution Law and established the Successor Agency Commission to which it delegated authority to exercise land use, development and design approval for “surviving redevelopment projects,” subject to specified reserved authority for the Board of Supervisors acting as the governing body of the Successor Agency; and
- WHEREAS, The Successor Agency to the Redevelopment Agency, commonly known as the Office of Community Investment and Infrastructure (“OCII”), is a legal entity separate from the City and County of San Francisco (“City”), has assumed the remaining rights and obligations of the former Redevelopment Agency, and has “succeed[ed] to the organizational status of the former redevelopment agency” with the authority “to complete any work related to an approved enforceable obligation,” Cal. Health & Safety Code § 34173 (g); and

WHEREAS, OCII has the continuing authority and obligation: (1) to exercise land use controls required under Enforceable Obligations (including the Mission Bay North Owner Participation Agreement (“OPA”), the Mission Bay South OPA, the Disposition and Development Agreement (“DDA”) for Hunters Point Shipyard (“HPS”) Phase 1, the DDA for Candlestick Point-HPS Phase 2 DDA, the Transbay Implementation Agreement, and other OPAs and DDAs for projects that are not yet complete, and (2) to enforce the land use controls under redevelopment plans and related development controls where the City has not requested the transfer of land use functions to the City. These redevelopment plans include Zone 1 of the Transbay Redevelopment Plan, Zone 1 of the Bayview Hunters Point Redevelopment Plan, the HPS Redevelopment Plan, the Mission Bay North and South Redevelopment Plans, the Rincon Point-South Beach Redevelopment Plan, and the Bayview Industrial Triangle Redevelopment Plan; and

WHEREAS, The Redevelopment Dissolution Law provides, among other things, that successor agencies may take actions in compliance with enforceable obligations and for the purpose of winding down the redevelopment agency. Cal. Health & Safety Code § 34177.3; and

WHEREAS, The OCII has a continuing need to review and approve development projects, including design and environmental review, as part of the wind down of redevelopment agencies; and

WHEREAS, OCII is currently reviewing a multi-purpose event center and mixed used development that the Golden State Warriors, through its affiliate GSW Arena LLC, have proposed under the Mission Bay South Redevelopment Plan and the Mission Bay South OPA and that Governor Jerry Brown has certified, on April 30, 2015, as an “environmental leadership development project” (“Leadership Project”) under the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (“AB 900”). Cal. Public Resources Code §§ 21178 et seq., and

WHEREAS, Under AB 900, OCII as the lead agency under the California Environmental Quality Act, must certify finally an environmental impact report for, and approve, a Leadership Project prior to January 1, 2016; and

WHEREAS, To ensure adequate public participation and review of environmental impact reports for Leadership Projects (“Leadership Project EIRs”), OCII proposes special procedures for the filing of appeals associated with Leadership Project EIRs, including filing an appeal with OCII within ten days of the Final EIR certification and requiring OCII to review the appeal for sufficiency and completeness and to transmit the appeal to the Clerk of the Board of Supervisors; and

WHEREAS, OCII proposes that the Board of Supervisors, acting in its capacity as the governing body for the Successor Agency, follow standards and procedures for

scheduling and conducting a public hearing that it has previously established for similar appeals of CEQA decisions by the Planning Commission or other City agencies. NOW THEREFORE BE IT,

RESOLVED, that the Commission on Community Investment and Infrastructure hereby adopts the Procedures for Appeal of EIR Certifications of Environmental Leadership Development Projects approved by the Office of Community Investment and Infrastructure, attached as Exhibit A to this Resolution.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of June 2, 2015.



Commission Secretary

Procedures for Appeal of EIR Certifications of Environmental Leadership Development Projects approved by the Office of Community Investment and Infrastructure

This policy establishes the procedures under which the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, acting through the Office of Community Investment and Infrastructure, or its Commission (collectively referred to as "OCII"), will provide that OCII's certification of an environmental impact report for a qualifying Environmental Leadership Development Project under the Jobs and Economic Improvement Through Environmental Leadership Act of 2011, Cal. Public Resources Code §§ 21178 et seq. ("Environmental Leadership EIR" or "EIR") may be appealed to the Board of Supervisors (the "Board"). The appeal procedures are as follows:

- (1) Only persons or entities that submit comments on a project either in writing during the public review period of an Environmental Leadership EIR, or orally or in writing at or before the close of OCII's public hearing, may appeal OCII's EIR certification to the Board.
- (2) The appellant shall submit a letter of appeal to the OCII Executive Director or his or her designee (collectively referred to as "OCII Executive Director") within 10 calendar days of OCII's Environmental Leadership EIR certification. If the 10th day is a weekend or holiday, the appellant must submit the letter of appeal no later than the next business day.
- (3) A letter of appeal shall be timely filed only if it is received by the OCII Executive Director no later than 5:00 PM on the day the letter of appeal must be submitted under paragraph (2).
- (4) The letter of appeal must state the specific grounds for appeal of OCII's Environmental Leadership EIR certification and include references to the written or oral comments that were timely submitted to OCII raising the issues identified in the appeal, and any other written materials in support of the appeal. The appeal may be based only on specific CEQA grounds alleged by any persons or entities before OCII makes its decision on the project. For purposes of these procedures, "project" has the meaning set forth in CEQA Guidelines, Title 14 CCR, Division 6, Chapter 3, Section 15378 and "approval" has the meaning set forth in Section 15352.
- (5) The appellant must sign the letter of appeal, or may have an agent sign and file an appeal on the appellant's behalf.
- (6) Upon receiving an appeal, the OCII Executive Director must determine whether the appeal has been filed in a timely manner and otherwise complies with the requirements of these procedures. Within five business days of the filing of the appeal, the OCII Executive Director must mail notice to the appellant of OCII's acceptance or rejection of the appeal. If the appeal is accepted, at the same time, the OCII Executive Director must advise the Clerk of the Board of the notice of OCII's acceptance of the appeal, request that the Clerk set the appeal for a public hearing before the Board, and provide a copy of the letter of appeal and a list of individuals and organizations that have requested notices relating to the project. A decision by the OCII Executive Director rejecting an appeal is final and may not be appealed.

No further action is required by the OCII Executive Director or OCII for a letter of appeal that has been rejected.

- (7) Once the Clerk of the Board has scheduled the appeal for public hearing, the OCII Executive Director must promptly, but no later than 11 calendar days before the scheduled hearing, transmit copies of the environmental review document to the Clerk of the Board and make the administrative record available to the Board. Also, the OCII Executive Director must otherwise assist the Clerk of the Board in accordance with any procedures established by the Clerk of the Board for such appeals.
- (8) In adopting these procedures, OCII recognizes that the Board, in considering any appeal of a OCII's Environmental Leadership EIR certification, may follow the standards and procedures for a hearing that the Board has established for similar appeals of CEQA decisions by the Planning Commission or other City agencies.
- (9) If the Board reverses OCII's Environmental Leadership EIR certification, OCII must take further action under CEQA in compliance with the Board's appeal findings. Any further appeal from a subsequent CEQA decision by OCII after such remand shall be limited to the adequacy of changes made by OCII in response to the Board's findings relating to the initial appeal.
- (10) If the Board affirms OCII's Environmental Leadership EIR certification, the date of the final EIR shall be the date upon which OCII first certified the EIR and any actions approving the project made prior to the appeal decision shall be deemed valid.
- (11) The date the project shall be considered finally approved must occur no earlier than (1) the expiration date of the appeal period if no appeal is filed, (2) the date the OCII Executive Director rejects the appeal, or (3) the date the Board denies the appeal.
- (12) After OCII has decided to approve the project and the project is considered finally approved as provided for Paragraph 11, in accordance with CEQA procedures, and upon the payment of required fees by the project sponsor, the OCII Executive Director shall file a notice of determination with the County Clerk for an environmental impact report. If required by CEQA, the notice of determination shall also be filed with the California Office of Planning and Research. When the OCII Executive Director files a notice of determination with the county clerk or the California Office of Planning and Research or both, OCII also shall post a copy of the notice of determination in the offices of OCII and on OCII's website, and mail a copy of the notice of determination to organizations and individuals who previously have requested such notice in writing.

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