
COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

Successor Agency Commission



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A G E N D A

TUESDAY, June 2, 2015 • 1:00 p.m.

ACCESSIBLE MEETING POLICY

1. The meeting/hearing will be held in City Hall, Room 416, 1 Dr. Carlton B. Goodlett Place, San Francisco. The room is wheelchair accessible and has accessible seating for persons with disabilities and those using wheelchairs. Ramps are available at the Grove, Van Ness and McAllister entrances. A wheelchair lift is available at the Polk Street entrance.
2. The closest accessible BART station is Civic Center, three blocks from City Hall. Accessible MUNI lines serving this location are: #47 Van Ness, #49 Van Ness, #71 Haight/Noriega, #5 Fulton, #21 Hayes, #6 Parnassus, #7 Haight, the F Line to Market and Van Ness and any line serving the Metro Stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call 311.
3. There is accessible parking across from City Hall at the Civic Center Garage.
4. The following services are available by calling the Office of Community Investment and Infrastructure at (415) 749-2400 at least 72 hours prior to the meeting/hearing: Assistive listening device, real time captioning, American Sign Language interpreters, use of a reader during a meeting, large print agendas or other accommodations are available upon request. Following a meeting minutes can be made available by audiocassette tape or alternative formats.

5. Requests for language interpreters at a meeting must be received at least 72 hours in advance of the meeting to help ensure availability. Please contact the Office of Community Investment and Infrastructure at (415) 749-2400.
6. In order to assist the Office of Community Investment and Infrastructure efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the Office of Community Investment and Infrastructure to accommodate these individuals.

REGULAR MEETING AGENDA

PLEASE BE ADVISED A MEMBER OF THE PUBLIC HAS UP TO THREE MINUTES TO MAKE PERTINENT PUBLIC COMMENTS ON EACH AGENDA ITEM UNLESS THE COMMISSION ADOPTS A SHORTER PERIOD ON ANY ITEM. IT IS STRONGLY RECOMMENDED THAT MEMBERS OF THE PUBLIC WHO WISH TO ADDRESS THE COMMISSION SHOULD FILL OUT A "SPEAKER CARD" PROVIDED BY THE COMMISSION SECRETARY, AND SUBMIT THE COMPLETED CARD TO THE COMMISSION SECRETARY.

1. Recognition of a Quorum

2. Announcements

- A. The next regularly scheduled Commission meeting will be held on Tuesday, June 16, 2015 at 1:00 pm (City Hall, Room 416).

- B. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting

Please be advised that the ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing of or use of a cell phone, pager, or other similar sound-producing electronic device.

3. Report on actions taken at previous Closed Session meeting, if any.

4. Matters of Unfinished Business.

STAFF PRESENTATION ESTIMATED TIME: 45 MINUTES

- a) Workshop on the status of the U.S. Department of the Navy's environmental remediation at the Hunters Point Shipyard; Hunters Point Shipyard Project Area (Discussion)

5. Matters of New Business:

CONSENT AGENDA

ALL MATTERS LISTED HEREUNDER CONSTITUTE A CONSENT AGENDA, ARE CONSIDERED TO BE ROUTINE BY THE COMMISSION, AND WILL BE ACTED UPON BY A SINGLE VOTE OF THE COMMISSION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A MEMBER OF THE COMMISSION OR THE PUBLIC SO REQUESTS, IN WHICH EVENT THE MATTER SHALL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED AS A SEPARATE ITEM:

- a) Approval of Minutes: Regular Meeting of May 5, 2015
- b) Authorizing a second amendment of the Fillmore Heritage Garage Management Agreement with Imperial Park (U.S.), LLC, a Delaware Limited Liability Company, to extend the term until June 30, 2016 consistent with the Successor Agency's Property Management obligations under Redevelopment Dissolution law (Action) (Resolution No. 31-2015)
- c) Authorizing a Third Amendment to the Personal Services Contract with Twin III Building Maintenance Company, a sole proprietorship, that extends the term by 12 months to June 30, 2016 and increases the amount by \$16,232 for an aggregate contract amount not to exceed \$369,000 to fulfill property management obligations for Shoreview Park; former Hunters Point Redevelopment Project Area (Action) (Resolution No. 32-2015)

REGULAR AGENDA

STAFF PRESENTATION ESTIMATED TIME: 50 MINUTES

- d) Workshop on the Marketing Report for the Affordable Housing Program for Fiscal Year 2014-15 (Discussion)

STAFF PRESENTATION ESTIMATED TIME: 45 MINUTES

- e) Adopting procedures for filing of appeals of the certification of an environmental impact report for Environmental Leadership Development Projects under the California Environmental Quality Act (Discussion & Action) (Resolution No. 33-2015)

6. Public Comment on Non-agenda Items

Members of the public may address the Commission on matters that are within the Commission jurisdiction and not on today's calendar. Each speaker shall have up to three minutes to make pertinent public comments unless the Commission adopts a shorter period. It is strongly recommended that members of the public who wish to address the Commission should fill out a "Speaker Card" provided by the Commission Secretary, and submit the completed card to the Commission Secretary.

7. Report of the Chair

8. Report of the Executive Director

9. Commissioners' Questions and Matters

10. Closed Session

11. Adjournment

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Tiffany Bohee, Executive Director

SUBJECT: Adopting Procedures for Filing of Appeals of a Certification of an Environmental Impact Report for Environmental Leadership Development Projects under the California Environmental Quality Act

EXECUTIVE SUMMARY

On April 30, 2015, Governor Jerry Brown certified the multi-purpose event center and mixed-use development proposed by the Golden State Warriors for Mission Bay South (the "Project") as an "environmental leadership development project" ("Leadership Project") under the Jobs and Economic Improvement Through Environmental Leadership Act of 2011. Cal. Public Resources Code §§ 21178 *et seq.* This certification means, among other things, that the Governor has determined that the Project meets certain statutory standards, including that it creates high-wage, highly skilled jobs (including construction and permanent jobs), limits additional emissions of greenhouse gases, agrees to be bound by all required mitigation measures, invests more than \$100 million in the State, and pays for the preparation of a publicly-accessible and immediately-available administrative record supporting the environmental review. Certification as a Leadership Project also means that any litigation challenging the certification of the environmental impact report ("EIR") or approvals for the project must be resolved, including any potential appeals to the Court of Appeals, within 270 days of certification of the administrative record. This creates an accelerated timeframe for CEQA litigation. To take advantage of this accelerated timeframe, however, the lead agency, i.e. the Office of Community Investment and Infrastructure ("OCII"), must finally certify the project EIR and approve the project prior to January 1, 2016. To ensure that the process for consideration and certification of the Final EIR is complete within this timeframe, OCII proposes to require that any appeal of the Final EIR certification be filed within ten days of EIR certification.

Staff recommends adopting special procedures for the filing of appeals of a certification of an environmental impact report for Environmental Leadership Development Projects

DISCUSSION

The Jobs and Economic Improvement through Environmental Leadership Act ("Assembly Bill 900" or "AB 900")¹ provides streamlining benefits under CEQA for "environmental leadership development projects" that are located on an infill site and that meet the criteria described below. Under AB 900, the lead agency must certify the Final EIR and approve the certified Leadership Project by January 1, 2016.

¹ California Public Resources Code 21178 *et seq.*

GSW Arena LLC, an affiliate of the Golden State Warriors LLC, applied to the Governor for certification of the proposed project as a Leadership Project under AB 900, and the application was subject to public review from March 2, 2015 through April 1, 2015.

Governor Jerry Brown certified the proposed project as a leadership project on April 30, 2015. Certification indicates that the proposed project meets or will meet the requirements of a leadership project, which involves achieving all of the following conditions: (1) the project would result in a minimum investment of \$100 million dollars in California upon completion of construction; (2) the project would create high-wage, highly skilled jobs that pay prevailing wages and living wages and provide construction jobs and permanent jobs for Californians, and help reduce unemployment; (3) the project would not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation, as determined by the State Air Resources Board; (4) the project applicant has entered into a binding and enforceable agreement that all mitigation measures required pursuant to the law to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency, and in the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation; (5) the project applicant agrees to pay the costs of the Court of Appeal in hearing and deciding any case, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council; and (6) the project applicant agrees to pay the costs of preparing the administrative record for the project concurrent with review and consideration of the project pursuant to this division, in a form and manner specified by the lead agency for the project.

AB 900 and the Governor's guidelines for streamlining judicial review under AB 900 also require the following: the project is residential, retail, commercial, sports, cultural, entertainment, or recreational in nature; the project upon completion will qualify for LEED Silver Certification at a minimum; the project will achieve at least 10 percent greater transportation efficiency than comparable projects; the project is located on an infill site in an urbanized area; and the project's draft EIR must be circulated for public review after the governor certifies the project for CEQA streamlining.²

OCII is preparing an administrative record for the proposed project and associated CEQA review process in accordance with AB 900. All documents and other materials placed in the administrative record will be posted on, and downloadable from OCII's website commencing with the date of the release of the draft subsequent environmental impact report ("Draft SEIR"). The administrative record will include the Draft SEIR and all other documents submitted to, or relied on by, the lead agency in the preparation of the Draft SEIR. In addition, a CEQA-related document prepared by the lead agency or submitted by the applicant or members of the public after the date of the release of the Draft SEIR that is a part of the record of the proceedings will

² The Governor's Office of Planning and Research, California Jobs, *Governor's Guidelines for Streamlining Judicial Review Under the California Environmental Quality Act*, available online at http://opr.ca.gov/s_californiajobs.php, accessed January 6, 2015 and California Public Resources Code Section 21180(b)(1) and (c).

be made available to the public in a readily accessible electronic format within the timeframes specified by AB 900.

Pursuant to Public Resources Code Section 21187, within 10 days of the Governor's certification of the Leadership Project, OCII issued a public notice on May 7, 2015 stating that the applicant has elected to proceed under Chapter 6.5 (commencing with Section 21178) of the Public Resources Code, which provides, among other things, that any judicial action challenging the certification of the EIR or the approval of the project described in the EIR is subject to the procedures set forth in Section 21185 to 21186, inclusive, of the Public Resources Code. Also, OCII will issue a similar notice the first week of June after certification of the Governor's action by the Joint Legislative Budget Committee. In particular, Section 21185 requires that any actions or proceedings brought to attack, review, set aside, void or annul the certification of the environmental impact report or the granting of any project approvals of a certified project must be resolved, including any potential appeals, within 270 days of certification of the administrative record. This creates an accelerated timeframe for CEQA litigation. It applies to projects that have a certified EIR and are certified by the Governor as "environmental leadership development projects" by January 1, 2016.

OCII proposes to provide a special appeal process for challenges to the certification of an environmental impact report for a qualifying Leadership Project, such as the project proposed by GSW Arena LLC. Under the procedures, OCII will accept and review the filing of appeal documents. If the appeal documents are satisfactory, OCII will forward the appeal to the Board of Supervisors for its consideration. In reviewing the appeal, the Board of Supervisors will act in its capacity as the governing body of the Successor Agency to the former Redevelopment Agency over the state-authorized matters relating to the dissolution and wind down of redevelopment agencies. See Cal. Health and Safety Code §§ 34170 et seq.; Board of Supervisor Ordinance No. 215-12 (Oct. 4, 2012).

Specifically, only a person who has submitted comments at or before the close of OCII's hearing on the Final EIR certification may submit an appeal letter to the OCII Executive Director and must do so within ten days of certification. The OCII Executive Director will review the letter of appeal to ensure that it relies on previous comments made during the public review process and refers to specific CEQA grounds for the appeal. 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, OCII must advise, in the same timeframe, the Clerk of the Board of Supervisors 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.

In adopting these procedures, OCII recognizes that the Board of Supervisors, in considering any appeal of OCII's 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.

CONCLUSION

Adoption of procedures for the filing of CEQA appeals related to the certification of a Final EIR for a Leadership Projects will ensure compliance with the state requirements for final approval of these projects and will provide the public with the opportunity to have appellate review by the Board of Supervisors of the environmental impact report associated with such projects.

(originated by Jim Morales, Interim General Counsel and Deputy Director)

A handwritten signature in black ink, appearing to read 'Tiffany Bohee', with a long horizontal line extending to the right.

Executive Director

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 33-2015

ADOPTING PROCEDURES FOR FILING OF APPEALS OF THE CERTIFICATION OF AN 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;” 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 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 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 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 a 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.

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 any organizations and individuals who previously have requested such notice in writing.