Recommended Changes to SEDC/CCDC Operating Agreements/Bylaws
(As of June 19, 2009)

	IBA Recommendations	Mayor's 3/20/09 Proposal	Audit Committee Motion 3/23/09 * Rules Committee Motion 3/25/09 **	SEDC Response 5/20/09	Mayor's Response 6/19/09
A	GOVERNANCE-Consider creating additional SEDC/CCDC Board positions and appoint the Redevelopment Agency's Deputy Director to serve as City representative/voting member to these Boards. This is suggested in lieu of the Mayor's proposal to add two new members, one representing the Mayor's Office and one representing the City Council, to avoid the "compatibility of office" issue. (Addresses Audit Rec. #1)	2. Expand the Corporation Boards of Directors to include a voting member appointed as a Mayoral appointee and a voting member appointed by the City Council	Amended Mayor's Item 2 to expand Corporation Boards with a Mayoral appointee, but not a City Council appointee	Closed sessions may cause special problems for any mayoral/council appointees under Brown Act. Bringing BOD to even number of members creates potential for tie votes and will require tiebreaking mechanism to be drafted.	Recommend one Mayoral appointee immediately begin serving and the elimination of one at-large board member upon next term expiration
B	BOARD EXPERTISE- Recommend SEDC bylaws be changed to require 2-3 SEDC Board members to have specific expertise e.g. Finance, Real Estate, Law.	Not addressed	Included IBA Item B "Board Expertise"	OK as long as local community representation is specifically preserved - a key element of successful redevelopment	Agree with IBA and SEDC
C	EXECUTIVE HIRING- Recommend City Council and Mayoral representatives serve on a panel with each Corporation Board to participate in recruitment, interviewing and appointing the Executives. Amend bylaws to require Agency confirmation of the appointees. Currently, the Boards have sole authority to hire the Executive.	1. Designate the Mayor as the appointing authority of each corporation's CEO, subject to City Council confirmation, and grant the Mayor termination authority, subjec to a right of appeal to the City Council. Include the creation of candidate selection committees for each CEO search to be comprised of 1 Mayoral representative, 2 members of the City Council, and 2 members of the Corporation. The selection committee shall screen potential candidates and provide the Mayor with not less than 4 candidates to select from. The Mayor may select one of the forwarded candidates, or may reject the applicants and require a new recruitment process	Amended Mayor's Item 1 to provide the Mayor with authority to suspend and terminate the executive officer subject to appeal to the City Council which must be supported with a two-thirds vote. Provide the Mayor with authority to replace the CEO with an interim officer during the appeal process. Amended Mayor's Item 1 to have a candidate selection committee comprised of one representative from the Mayor, one from the City Council, one from the Corporation Board. The selection committee shall provide no less than 3 candidates to the Mayor who shall appoint the CEO subject to confirmation by the City Council which must be supported with a two-thirds vote.	This limits the role of the SEDC BOD in hiring and firing without relieving the fiduciary liability for board members. The SEDC BOD must be able to discipline and fire CEO. The SEDC BOD likes the Housing Commission search model which provided for community input not present in the proposed model and prefers to have SEDC BOD vote on final selection of CEO. The structure proposed could unintentionally limit ability to attract qualified applicants. Agrees with Mayor having the right to fire CEO for cause with CEO ability to appeal termination to council.	THIS RESPONSE ALSO APPLIES TO CCDC COMMENT. Partially agree with SEDC recommendation. Recommend the Audit Committee recommendation with clarification that a role for the Boards of Directors in the selection of the candidates for CEO be provided. This change is not required to be articulated in changes to the Operating Agreements or Bylaws. Clarity of authority is critical to resolving weaknesses in the status quo. While SEDC argues that the Audit Committee recommendation would limit ability to attract qualified candidates, on the contrary, having multiple bodies (the Mayor and SEDC Board) empowered to remove the CEO could have a substantial chilling effect on recruitment efforts as it causes confusion over with whom final authority rests

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D	POLICIES/PROCEDURES- Require the development of policies/procedures for personnel, finance, budget, expenditure allowances, purchasing, ethics, recordkeeping; and adherence to them. If no policy, City policy will apply. Require systematic review and update to remain current with best practices. Require Board to approve all such policies. Those impacting the Agency's authority shall be approved by the Agency upon recommendation by the Boards. (Addresses Audit rec's. #1,8,10,11,12,13,14,15,18, 29)	3. Corporation boards shall adopt purchasing and contracting policies that establish limits for staff level approval of contracts and provide for timely public disclosure of such executed contracts; 9. Any violation of City policies constitutes breach of the Operating Agreements; 11. Corporation board must approve all internal contracts and fiscal policies before submission to City CFO for approval; 14. Corporation board must develop and approve a Personnel Manual that is updated annually	Amended Mayor's language to include IBA Item D "Policies/Procedures"	No. 3 - OK as proposed. No. 9 - Overly broad and charges SEDC BOD with knowledge of all City policies, many of which do/will not apply to SEDC. No. 11 - still prefers City CFO to "review and comment" on fiscal policies versus review and approve and does not understand why City CFO would be asked to review SEDC contracts. No. 14 - OK as proposed	No. 9 – Partially agree. Outside agencies are expected to implement policies for corporate governance, but in absence of a City CFO approved outside agency policy, City policy should apply. As stated in Mayor Recommendation 11, policies must be reviewed and approved by the City CFO.No. 11 – Partially agree. City CFO should have oversight of outside agency policies, but contracts should be overseen by outside agencies and be in conformance with City CFO approved contracting policies
E	CFO REVIEW OF FISCAL POLICIES- Require Corporations to review all fiscal and budget policies with the City's CFO and solicit the CFO's input prior to Board approvals, but not require approval of said policies by the City's CFO as recommended in Audit. (Partially addresses Audit rec. #17)	11. Corporation board must approve all internal contracts and fiscal policies before submission to City CFO for approval	Approved Mayor's Item 11 as is.	See response to No. 11 above	Ok
F	BUDGET PROCESS- Require Corporations to adhere to the City's budget process including financial parameters and guidelines, timelines, format and information. Prior to Agency approval, recommend that Financial Management perform a line item review, comment and critique, and ensure that requested revision revisions are made or, if not made, FM to report deviations to the Agency during budget reviews. (Addresses Audit Rec's. 1, 20, 21,22)	7. Corporations must follow City administration budget policies in any administrative budget submission. Any submission must first be submitted to the City CFO for review prior to submission to Redevelopment Agency	Approved Mayor's Item 7 as is.	OK as proposed - already part of SEDC budget process	Ok
G	CITY REIMBURSEMENTS-Recommend that the Corporation's CFO submit requests for reimbursement of eligible expenses for Board approval prior to the request being made to the City Comptroller's Office.	Not addressed	Not addressed	Not workable due to delay between approval and funding which will hurt small vendors, suppliers, and contractors who need prompt payment to survive.	Agree with SEDC
H	BOARD TRAINING- Require that on a routine basis, the Boards will receive training that shall, at a minimum, cover the Board's fiduciary responsibilities, redevelopment trends and best practices, and redevelopment-related finance. Require attendance at all training to remain on the Boards. (Addresses Audit rec. #7)	10. Corporation board member training in ethics, fiduciary duties and governance shall occur every 2 years with submission to City CFO of training certificate	Approved Mayor's Item 10 as is.	OK as proposed - already in process.	Ok

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I	PUBLIC INFORMATION - Require Corporations to provide certain key documents and information to the public via their website including Board agendas and related backup reports and documents; current adopted budget; annual financial reports, Corporation bylaws and policies.	Not addressed	Included IBA Item I "Public Information"	OK, but could be very costly for server capacity. Will basically require FT website maintenance and additional funding for new position to handle this.	Ok
J	STRATEGIC PLAN-Require Corporations to develop a multi-year strategic plan that reflects the needs of the community as determined through extensive community outreach and lines up with the vision of the City. Report to LU&H annually. (Addresses Audit Rec. #28)	Not addressed	Included IBA Item J "Strategic Plan"	OK - this is needed, but by what date and using what funding? Can tax increment be used? Will require use of outside consultant(s).	Ok
K	SEDC AUDIT COMMITTEE- Require SEDC to establish its own Audit Committee.	Not addressed	Included IBA Item K "SEDC Audit Committee" and included requirements that the Boards follow Closed Session: policies idential to the City Council's closed session policies.	OK on creating SEDC audit committee and counsel is preparing closed sessiòn policy which parallels City Council's	Ok
L	DOCUMENT REVIEW - Require Corporations to allow City to inspect all corporate documents without advance notice (City Attorney suggestion).	4. City has the right to inspect all documents and records, including but not limited to, financial records and personnel records, at a reasonable time to be established but no later than 10 days after written request by the City	Approved Mayor's Item 4 approved as is.	OK except as to personnel records which are protected by employees' right to privacy.	Ok
M	PERFORMANCE AUDITS - Require regular Performance Audits paid for by the Corporations (City Attorney Suggestion).	5.City has the right to order a performance audit, to be paid for in full by Corporation, no more than once per year	Approved Mayor's Item 5 approved as is.	OK, but cost is a concern and cost may not be eligible use of tax increment under CRL.	Ok
N	CITY- City shall be responsible for promptly filling vacant and/or expired Board positions.	Not addressed	Added the following language: "Amend San Diego Municipal Code to prohibit the Comptroller from expending any tax payer funds on either agency when the boards of that agency has less than two-thirds valid current appointments."	Will cause hardship for projects already underway. Mayor can use non-appointment to effectivley close down operations. Believe Rules amendment related to new project funding, not all funding being held up.	THIS RESPONSE ALSO APPLIES TO CCDC COMMENT. Disagree with Committee recommendation. Restricting funding should not be linked to board membership. Potential would exist for unforeseen vacancies to shut down normal operations of outside agencies, potentially causing contract defaults
O	CITY- City shall be responsible for providing direction to Corporations on financial guidelines, information and format of the budget to be submitted by the Corporation.	Not addressed	Not addressed	OK as proposed	Ok

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P	CITY -Consider the Budget and Finance Committee convene as a Subcommittee of the Redevelopment Agency to review the proposed budget in advance of the Agency's review and adoption.	Not addressed	Not addressed	OK, but doesn't apply to SEDC operating agreement(s)	Ok
Q	CITY- Chief Financial Officer's quarterly financial status report to the City Council to include Corporation's financial status and pertinent project area data. Format to be developed by the City in consultation with the Corporation's CFO. SEDC to meet City timelines and information needs.	Not addressed	Not addressed	OK as proposed as long as timelines are reasonable	Ok
R	CITY - Create Redevelopment Committee. This item was raised at Rules Committee.	Not addressed	Not addressed	N/A - applies only to City	Ok
S	Not Addressed by IBA	6. Corporations shall perform annual financial audits and submit them to the City	Mayor's Item 6 approved as is.	OK as proposed	Ok
T	Not Addressed by IBA	12. Any line item transfers of budgeted funds must be approved by Corporation board on a monthly basis	Mayor's Item 12 approved as is.	OK, but request some standard of materiality in the form of a set dollar amount or percentage.	Agree with SEDC. Transfers in excess of $10,000 should be approved by the Board of Directors
U	Not Addressed by IBA	13. Corporation board must approve total compensation to senior officers annually, including salary, benefits, and performance pay	Mayor's Item 13 approved as is.	OK, but who does CEO annual performance evaluation if SEDC BOD cannot fire the CEO for non-performance.	Mayor shall perform annual performance evaluations for the CEO and consult with the Board of Directors. The Board of Directors should review and approve compensation annually for executive officers other than the CEO
V	Not Addressed by IBA	15. Corporation board is required to review financial statements and verify with certification by board, CFO, and CEO	Mayor's Item 15 approved as is.	Assumed to be OK as long as agreement spells out what BOD, CEO, and CFO are "certifying" to and why.	Ok
W	Not Addressed by IBA	16. Corporation board is to review and approve monthly financial statements, presented by the Corporation CFO, comparing actual to budget with any variance fully disclosed and explained. These statements are to be submitted to the City CFO	Mayor's Item 16 approved as is.	Could be very time consuming and costly unless limited to quarterly. Is this a new policy for all City agencies/corporations?	Disagree with SEDC. Regular review of budgeted to actual results by the Board of Directors would result in increased accountability and governance. City Charter section 39 requires similar information is provided on a monthly basis by the City of San Diego, therefore this requirement aligns outside agency operations with those of the City.

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X	Not Addressed by IBA	17. Corporation Boards of Directors must follow redevelopment law	Mayor's Item 17 approved as is.	OK as proposed	Ok
Y	Not Addressed by IBA	8. Mayor has the right to suspend and recommend approval by Council of any Corporation Board menbers based upon breach of operating agreement.	Mayor's Item 8 approved as is.	Need clarification. Is standard for removal to be "at will" or "for cause"? Does member have same right to appeal to Council as CEO?	Board Members are at-will, voluntary positions

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