

Commission on Community Investment and Infrastructure

RESOLUTION NO. 4-2012
Adopted December 18, 2012

RESOLUTION AUTHORIZING THE ISSUANCE OF SPECIAL TAX BONDS FOR COMMUNITY FACILITIES DISTRICT NO. 6 (MISSION BAY SOUTH PUBLIC IMPROVEMENTS) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$160,000,000, AND APPROVING AND DIRECTING THE EXECUTION OF A THIRD SUPPLEMENT FISCAL AGENT AGREEMENT, A BOND PURCHASE AGREEMENT, AN OFFICIAL STATEMENT, AN ESCROW AGREEMENT, THE ENGAGEMENT OF PROFESSIONALS AND APPROVAL OF OTHER RELATED DOCUMENTS AND ACTIONS; MISSION BAY SOUTH REDEVELOPMENT PROJECT AREA

WHEREAS, The Commission of the Redevelopment Agency of the City and County of San Francisco (the "Former Redevelopment Agency") conducted proceedings under and pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"), to form the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 6 (Mission Bay South Public Improvements) (the "District"), to authorize the levy of special taxes upon the land within the District, to issue bonds the proceeds of which are to be used to finance certain public facilities and to establish an appropriations limit for the District, all as described in Resolution Nos. 45-2000, 46-2000 and 47-2000 (collectively, the "District Formation Resolutions"), each adopted by the Commission of the Former Redevelopment Agency on March 28, 2000; and,

WHEREAS, The Former Redevelopment Agency and FOCIL-MB, LLC (the "Master Developer"), as assignee of Catellus Development Corporation, are parties to a Mission Bay South Owner Participation Agreement (the "OPA") pursuant to which the Former Redevelopment Agency is obligated, at the request of the Master Developer, to issue special tax bonds for the District from time to time to finance various public capital improvements within or in the vicinity of the District (the "Improvements"); and,

WHEREAS, The Former Redevelopment Agency, for and on behalf of the District, entered into a Fiscal Agent Agreement, dated as of June 1, 2001 (the "Original Fiscal Agent Agreement"), with Wells Fargo Bank, National Association, as Fiscal Agent (the "Fiscal Agent"), and on July 10, 2001, the Former Redevelopment Agency, for and on behalf of the District, issued \$54,000,000 principal amount of its Community Facilities District No. 6 (Mission Bay South Public Improvements) Special Tax Bonds, Series 2001-South (the "Series 2001 Bonds"), the proceeds of which were used to finance Improvements; and,

WHEREAS, The Original Fiscal Agent Agreement provides that under certain conditions additional bonds may be issued, as authorized by a supplemental fiscal agent agreement, and secured on a parity with the Series 2001 Bonds under the Original Fiscal Agent Agreement as supplemented; and,

WHEREAS, The Former Redevelopment Agency, for and on behalf of the District, and the Fiscal Agent entered into a Supplemental Agreement No. 1 to Fiscal Agent Agreement, dated as of October 1, 2002 (the "First Supplement") and, under the

terms of the Original Fiscal Agent Agreement as supplemented and amended by the First Supplement, on November 7, 2002, the Former Redevelopment Agency, for and on behalf of the District, issued \$39,330,000 principal amount of its Community Facilities District No. 6 (Mission Bay South Public Improvements) Special Tax Bonds, Series 2002 Parity-South (the "Series 2002 Bonds"), the proceeds of which were used to provide additional financing for the Improvements; and,

WHEREAS, The Former Redevelopment Agency, for and on behalf of the District, and the Fiscal Agent entered into a Supplemental Agreement No. 2 to Fiscal Agent Agreement, dated as of July 1, 2005 (the "Second Supplement") and, under the terms of the Original Fiscal Agent Agreement as supplemented and amended by the First Supplement and by the Second Supplement (the Original Fiscal Agent Agreement, as so supplemented and amended, is referred to below as the "Fiscal Agent Agreement"), on July 26, 2005, the Former Redevelopment Agency, for and on behalf of the District, issued \$15,160,000 principal amount of its Community Facilities District No. 6 (Mission Bay South Public Improvements) Special Tax Bonds, Series 2005A Parity-South and \$5,708,938.75 principal amount of its Community Facilities District No. 6 (Mission Bay South Public Improvements) Special Tax Bonds, Series 2005B Parity-South (collectively, the "Series 2005 Bonds"), the proceeds of which were used to provide additional financing for the Improvements; and,

WHEREAS, The scheduled debt service on the Series 2001 Bonds, the Series 2002 Bonds and the Series 2005 Bonds has been paid from the Special Taxes (as defined in the Fiscal Agent Agreement) levied on property in the District and amounts in certain funds held under the Fiscal Agent Agreement and earnings thereon. No Tax Increment (as defined in the Fiscal Agent Agreement) has ever been used to pay debt service on the Series 2001 Bonds, the Series 2002 Bonds or the Series 2005 Bonds; and,

WHEREAS, Under California Assembly Bill No. 1X26 (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. 5194861, all redevelopment agencies in the State of California (the "State"), including the Former Redevelopment Agency, were dissolved by operation of law as of February 1, 2012, and their non-affordable housing assets and obligations were transferred to certain designated successor agencies; and,

WHEREAS, Under the provisions of AB 26, the City and County of San Francisco (the "City") was designated as the successor agency to the Former Redevelopment Agency (referred to below as the "Successor Agency") to receive the non-affordable housing assets of the Former Redevelopment Agency; and,

WHEREAS, On January 24, 2012, the Board of Supervisors of the City approved, and on January 26, 2012 the Mayor of the City signed, Resolution No. 11-12, which resolution, among other matters: (a) acknowledged that upon the Former Redevelopment Agency's dissolution the City as Successor Agency under AB 26 accepted the transfer of all of the Former Redevelopment Agency's non-affordable housing assets, and (b) provided for the required payment and performance of the Former Redevelopment Agency's enforceable obligations associated with the City's exercise of its responsibilities as Successor Agency to the Former Redevelopment Agency under AB 26, including the Fiscal Agent Agreement, the Series 2001 Bonds, the Series 2002 Bonds and the Series 2005 Bonds; and,

WHEREAS, On March 6, 2012, the Oversight Board of the Successor Agency adopted Resolution No. 2-2012 (the "Oversight Board Resolution"), wherein the Oversight Board resolved that the special tax revenues for the District (as well as for certain other community facilities districts of the Former Redevelopment Agency) shall not be included in Enforceable Obligation Payment Schedules and the Recognized Obligation Payment Schedules of the Successor Agency, and shall not be subject to review or approval under AB 26 by the Oversight Board or to the review and disapproval of the California Department of Finance or the California State Controller; but instead the Successor Agency shall administer or cause to be administered such funds in accordance with the Act and other applicable laws and agreements governing their use. The California Department of Finance did not object to the Oversight Board Resolution within the review period under Section 34179(h) of the California Health and Safety Code; and,

WHEREAS, In June of 2012, the California legislature adopted Assembly Bill 1484 ("AB 1484") amending certain provisions of AB 26, and the Governor of the State signed the bill and it became effective on June 27, 2012; and,

WHEREAS, Subsequent to the adoption of AB 1484, on October 2, 2012 the Board of Supervisors of the City adopted Ordinance No. 215-12 (the "Implementing Ordinance"), which Implementing Ordinance was signed by the Mayor on October 4, 2012, and which, among other matters: (a) acknowledged and confirmed that, as of the effective date of AB 1484, the Successor Agency is a separate legal entity from the City, (b) acknowledged and confirmed that the Successor Agency holds, subject to the applicable rights and restrictions set forth in AB 26 as amended by AB 1484, and as it may be further amended from time to time (collectively referred to in the Implementing Ordinance as the "Redevelopment Dissolution Law"), title to all assets, and all rights, obligations and liabilities of the Former Redevelopment Agency, (c) declared that the name of the Successor Agency is the "Successor Agency to the Redevelopment Agency of the City and County of San Francisco," (d) established the Successor Agency Commission (the "Successor Agency Commission") and delegated to the Successor Agency Commission the authority (excluding authority as to the "Housing Assets," as defined in the Implementing Ordinance) to act in place of the Former Redevelopment Agency Commission to, among other matters: (i) implement, modify, enforce and complete the Former Redevelopment Agency's enforceable obligations, except with respect to certain enforceable obligations for specified affordable housing purposes, (ii) approve all contracts and actions related to the assets transferred to or returned by the Successor Agency, consistent with applicable enforceable obligations, and (iii) take any action that the Redevelopment Dissolution Law requires or authorizes on behalf of the Successor Agency and any other action that the Successor Agency Commission deems appropriate consistent with the Redevelopment Dissolution Law to comply with such obligations, including, without limitation, authorizing additional obligations in furtherance of enforceable obligations, and approving the issuance of bonds to carry out the enforceable obligations, subject to any approval of the oversight board of the Successor Agency established pursuant to the provisions of the Redevelopment Dissolution Law (the "Oversight Board"), (e) designated the means by which the five members of the Successor Agency Commission would be determined, and (f) provided for an Executive Director of, and legal counsel to, the Successor Agency; and,

WHEREAS, Under the provisions of the OPA, the Master Developer has requested that the Successor Agency issue new parity bonds under the Fiscal Agent Agreement in order to provide additional financing for the Improvements; and,

WHEREAS, Due to favorable interest rates, the outstanding Series 2001 Bonds and Series 2002 Bonds can be refunded on a current basis with the proceeds of another new series of parity bonds issued under the Fiscal Agent Agreement, resulting in substantial savings in interest costs and thereby additional bonding capacity for the financing of Improvements; and,

WHEREAS, The financial advisors to the Successor Agency for the 2013 Bonds have had input into the staff report for this Resolution, which staff report addresses matters described in Section 34177.5(h) of the California Health and Safety Code; and,

WHEREAS, The following documents and instruments have been made available to the Successor Agency and the public, are on file with the Secretary of the Successor Agency: a Supplemental Agreement No. 3 to Fiscal Agent Agreement (the "Third Supplement") providing for the issuance of three additional series of bonds (collectively, the "Series 2013 Bonds") to be Parity Bonds (as defined in the Fiscal Agent Agreement), a Preliminary Official Statement describing the Series 2013 Bonds (the "Preliminary Official Statement"), a Bond Purchase Agreement to be used in connection with the sale of the Series 2013 Bonds (the "Purchase Contract"), an Escrow Agreement providing for the refunding of the Series 2001 Bonds and the Series 2002 Bonds (the "Escrow Agreement"), and a Continuing Disclosure Certificate related to the Series 2013 Bonds (the "Continuing Disclosure Certificate"); and,

WHEREAS, The sale and issuance of the Series 2013 Bonds are Successor Agency fiscal activities that do not constitute a "Project" as defined by the California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(4), will not independently result in a physical change in the environment, and are not subject to environmental review under CEQA; now therefore, be it

RESOLVED, The Successor Agency Commission finds that:

1. Based upon the current assessed value of the real property in the District that will be subject to the special tax to pay debt service on the Series 2013 Bonds and the Series 2005 Bonds, such real property has an assessed value that is in excess of an amount equal to three times the combined aggregate outstanding principal amount of the Series 2005 Bonds and the maximum initial amount of the Series 2013 Bonds authorized to be issued pursuant to this Resolution, and that no special taxes (other than those authorized to be levied by the District, by the Successor Agency's Community Facilities District No. 5 ("CFD No. 5") related to certain maintenance services and by a community facilities district no. 90-1 established to provide funding for the San Francisco Unified School District (the "SFUSD CFD 90-1"), which CFD No. 5 and SFUSD CFD 90-1 currently have no bonded indebtedness) or special assessments have been levied on any of the property within the District in the current calendar year; and,
2. The Bonds, when issued pursuant to the Fiscal Agent Agreement as amended and supplemented by the Third Supplement, will be in accordance with the Former Redevelopment Agency's Amended and Restated Local Goals and Policies for Community Facilities Districts which the Commission of the Former Redevelopment Agency adopted on July 15, 2008 pursuant to Resolution No. 79-2008 (the "Local Goals and Policies"), which Local Goals and Policies the Successor Agency Commission hereby acknowledges continue to be effective for community facilities districts for which the Successor Agency Commission is the legislative body; and,

3. (A) it is prudent in the management of the fiscal affairs of the Successor Agency and the District to issue the Series 2013A Bonds (as defined in the Third Supplement and referred to in this resolution as the “Series 2013A Bonds”) for the purpose of refunding the Series 2001 Bonds and the Series 2002 Bonds (collectively, the “Bonds to be Refunded”); (b) the total net interest cost to maturity of the Series 2013A Bonds plus the principal amount of the Series 2013A Bonds will not exceed the total net interest cost to maturity of the Bonds to be Refunded plus the principal amount of the Bonds to be Refunded (by reason of the requirement for sale of the Series 2013 Bonds in Section 4 below); and (c) the Series 2013 Bonds satisfy the “Parity Bond” requirements of Section 2.11 of the Fiscal Agent Agreement and, when issued, the Series 2013 Bonds will be secured under the Fiscal Agent Agreement on a parity with the Series 2005 Bonds and any future Parity Bonds that may be issued under the Fiscal Agent Agreement; and,
4. For purposes of Section 53363.2 of the Act: (a) it is expected that the purchase of the Series 2013A Bonds will occur on or after January 14, 2013, (b) the date, denomination, maturity dates, places of payment and form of the Series 2013A Bonds will be as set forth in the Fiscal Agent Agreement, as amended and supplemented by the Third Supplement, (c) the minimum rate of interest to be paid on the Series 2013A Bonds will be one-quarter of one percent (0.25%) with the actual rate or rates to be set forth in the Fiscal Agent Agreement, as amended and supplemented by the Third Supplement, (d) the place of payment for the Series 2013A Bonds will be as set forth in the Fiscal Agent Agreement, as amended and supplemented by the Third Supplement; and (e) the designated costs of issuing the Series 2013A Bonds will be as described in Section 53363.8(a) of the Act, and as otherwise described in the Third Supplement and the closing certificates for the Series 2013 Bonds, including Bond Counsel and Disclosure Counsel fees and expenses, Underwriters’ discount, financial advisor fees and expenses, printing costs, initial fiscal agent fees, and costs of City and Successor Agency staff incurred in connection with the sale and issuance of the Series 2013A Bonds; and,
5. The sale of the Series 2013 Bonds at negotiated sale as contemplated by the Purchase Contract will result in a lower overall cost, and the repayment of the Series 2013 Bonds will not require the use of any tax increment funds; and,
6. The sale and issuance of the Series 2013 Bonds are Successor Agency fiscal activities that do not constitute a “Project” as defined by the California Environmental Quality Act (“CEQA”) Guidelines Section 15378(b)(4), will not independently result in a physical change in the environment, and are not subject to environmental review under CEQA; and,
7. Upon approval of this Resolution by the Oversight Board, all acts and proceedings required by law necessary to make the Series 2013 Bonds, when executed by the Successor Agency for the District, authenticated and delivered by the Fiscal Agent and duly issued, the valid, binding and legal special obligations of the Successor Agency for the District, and to constitute the Fiscal Agent Agreement, as amended and supplemented by the Third Supplement, a valid and binding agreement for the uses and purposes therein set forth, in accordance with its terms, will have been done or taken and the execution and delivery of the Third Supplement will have been in all respects duly authorized; and, be it further

RESOLVED, Pursuant to the Act, this Resolution, the Fiscal Agent Agreement as amended and supplemented by the Third Supplement, and, as applicable, Sections 34177.5(a)(1) and 34177.5(a)(4) of the California Health and Safety Code, special

tax bonds of the Successor Agency for the District are hereby authorized to be issued in three series, with two series comprising Current Interest Bonds (as defined in the Fiscal Agent Agreement), designated as "Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 6 (Mission Bay South Public Improvements) Special Tax Refunding Bonds, Series 2013A Parity-South" (the "Series 2013A Bonds") and "Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 6 (Mission Bay South Public Improvements) Special Tax Bonds, Series 2013B Parity-South" (the "Series 2013B Bonds"), and the other series comprising Capital Appreciation Bonds (as defined in the Fiscal Agent Agreement), designated as "Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 6 (Mission Bay South Public Improvements) Special Tax Bonds, Series 2013C Parity-South" (the "Series 2013C Bonds;" the Series 2013A Bonds, the Series 2013B Bonds and the Series 2013C Bonds being collectively referred to in this Resolution as the "Series 2013 Bonds"). The aggregate initial amount of the Series 2013 Bonds shall not exceed \$160,000,000, and the initial principal amount of each series of the Series 2013 Bonds shall be as provided in the Purchase Contract, as executed by the Executive Director as further provided herein. The Series 2013 Bonds shall be executed in the form set forth in and otherwise as provided in the Fiscal Agent Agreement as amended and supplemented by the Third Supplement; and, be it further

RESOLVED, The Third Supplement is hereby approved in the form lodged with the Successor Agency's Secretary. The Executive Director and the Deputy Executive Director, Finance and Administration (each being hereinafter referred to as an "Authorized Officer"), each acting alone, are hereby authorized and directed to execute and deliver the Third Supplement in said form, with such additions thereto or changes therein as are approved by an Authorized Officer upon consultation with the Successor Agency and Bond Counsel, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Third Supplement by an Authorized Officer. The date, manner of payment, interest rate or rates, interest payment dates, denominations, form, registration, privileges, manner of execution, place of payment terms of redemption and other terms of the Series 2013 Bonds shall be as provided in the Third Supplement as finally executed.

It is hereby acknowledged that (a) the Third Supplement provides that the "Revenues" as defined therein to be used to repay the Series 2005 Bonds, the Series 2013 Bonds and any future Parity Bonds (as defined in the Fiscal Agent Agreement) will not include Tax Increment, as defined in the Fiscal Agent Agreement; and (b) the Third Supplement provides for the optional redemption prior to maturity of the Series 2013C Bonds, which are capital appreciation bonds; and, be it further

RESOLVED, The Purchase Contract between the Successor Agency and Stifel, Nicolaus & Company, Incorporated dba Stone & Youngberg, a division of Stifel Nicolaus, and Backstrom McCarley Berry & Co., LLC (collectively, the "Underwriters"), is hereby approved in the form lodged with the Successor Agency's Secretary. An Authorized Officer is hereby authorized and directed to accept the offer of the Underwriters to purchase the Series 2013 Bonds contained in the Purchase Contract (provided that the aggregate initial amount of the Bonds sold thereby is not in excess of \$160,000,000, the true interest cost of the Bonds is not in excess of 6.00% per annum and the underwriters' discount, without regard to any original issue discount, is not in excess of 1.20% of the aggregate initial amount

of the Series 2013 Bonds) and to execute and deliver the Purchase Contract in said form, with such additions thereto or changes therein as are recommended or approved by an Authorized Officer upon consultation with the Successor Agency and Bond Counsel, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Purchase Contract by an Authorized Officer; and, be it further

RESOLVED, The official statement relating to the Bonds (the "Official Statement") is hereby approved in the form of the Preliminary Official Statement lodged with the Successor Agency's Secretary. An Authorized Officer is hereby authorized and directed to make revisions to the Preliminary Official Statement prior to its dissemination to prospective investors and as otherwise necessary to bring it into the form of a final Official Statement and to execute the final Official Statement, in each case with such additions thereto or changes therein as are recommended or approved by an Authorized Officer upon consultation with the Successor Agency and Disclosure Counsel, the approval of such additions or changes to be conclusively evidenced by, respectively, the dissemination of the Preliminary Official Statement to prospective investors and the execution and delivery of a final Official Statement by an Authorized Officer. The Underwriters are hereby authorized to distribute copies of the Preliminary Official Statement, with any revisions as allowed under the preceding sentence, to persons who may be interested in the purchase of the Series 2013 Bonds and are directed to deliver copies of a final Official Statement to all actual purchasers of the Series 2013 Bonds. Any Authorized Officer is hereby authorized to execute a certificate or certificates to the effect that the final Official Statement and the Preliminary Official Statement were deemed "final" as of their respective dates for purposes of Rule 15c2-12 of the Securities Exchange Act of 1934, and is authorized to so deem such statements final; and, be it further

RESOLVED, The Escrow Agreement is hereby approved in the form lodged with the Successor Agency's Secretary. An Authorized Officer is hereby authorized and directed to execute and deliver the Escrow Agreement in said form, with such additions thereto or changes therein as are recommended or approved by such officer upon consultation with the Successor Agency and Disclosure Counsel, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Escrow Agreement by an Authorized Officer; and, be it further

RESOLVED, The Continuing Disclosure Certificate is hereby approved in the form lodged with the Successor Agency's Secretary. An Authorized Officer is hereby authorized and directed to execute and deliver the Continuing Disclosure Certificate in said form, with such additions thereto or changes therein as are recommended or approved by such officer upon consultation with the Successor Agency and Disclosure Counsel, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Continuing Disclosure Certificate by an Authorized Officer; and, be it further

RESOLVED, The Series 2013 Bonds, when executed, shall be delivered to the Fiscal Agent for authentication. The Fiscal Agent is hereby requested and directed to authenticate the Series 2013 Bonds by executing the Fiscal Agent's certificate of authentication and registration appearing thereon, and to deliver the Series 2013 Bonds, when duly executed and authenticated, to the Underwriters in accordance with written instructions executed on behalf of the Successor Agency by an Authorized Officer, which instructions such officer is hereby authorized and directed to execute and deliver to the Fiscal Agent. Such instructions shall provide for the delivery of the Series 2013 Bonds to the Underwriters in accordance with

the Purchase Contract, upon payment of the purchase price therefor; and, be it further

RESOLVED, The firms of Public Financial Management, Inc. and Kitahata & Company are hereby designated as financial advisors to the Successor Agency for the Series 2013 Bonds (collectively, the "Financial Advisors"); the firm of Quint & Thimmig LLP is hereby designated as bond counsel to the Successor Agency for the Series 2013 Bonds ("Bond Counsel"); and the firm of Jones Hall, A Professional Law Corporation, is hereby designated as disclosure counsel to the Successor Agency for the Series 2013 Bonds ("Disclosure Counsel"). The Executive Director is hereby authorized and directed to execute and deliver (a) agreements with each of the Financial Advisors for their services related to the Series 2013 Bonds, each in a form acceptable to the Executive Director; and (b) agreements with Bond Counsel and Disclosure Counsel for their services related to the Series 2013 Bonds, each in a form approved by the City Attorney acting as counsel to the Successor Agency; and, be it further

RESOLVED, Successor Agency Staff are hereby directed to take any and all actions necessary under the Redevelopment Dissolution Law (as defined in the Implementing Ordinance) to (a) include the Series 2013 Bonds as Enforceable Obligations (as defined in Section 34171(d)(1) of the California Health and Safety Code) of the Successor Agency, and (b) cause the Special Taxes to be levied and collected, and applied to the payment of the scheduled debt service on the Series 2005 Bonds and the Series 2013 Bonds as provided in the Fiscal Agent Agreement, as amended and supplemented by the Third Supplement; and, be it further

RESOLVED, That this Commission authorizes all actions heretofore taken by the officers and agents of the Successor Agency with respect to the establishment of the District, the sale and issuance of the Series 2013 Bonds herein authorized, the expenditure of the proceeds of the Series 2013 Bonds and the refunding of the Bonds to be Refunded are hereby approved, confirmed and ratified, and the proper officers of the Successor Agency are hereby authorized and directed to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Series 2013 Bonds and the refunding of the Bonds to be Refunded in accordance with this Resolution and any certificate, agreement and other document described in the documents herein approved.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of December 18, 2012.



Commission Secretary