office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

107-0102018-002

Agenda Item **Nos. 5 (b) & (c)**
Meeting of February 20, 2018

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, Executive Director

SUBJECT: Resolution of Intention to Establish Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (Hunters Point Shipyard Phase 2/Candlestick Point Public Facilities and Services), Improvement Area No.1 and a Future Annexation Area, and determining other matters in connection therewith

Resolution of Intention to Incur Bonded Indebtedness and other debt in an amount not to exceed $6,000,000,000 for the Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (Hunters Point Shipyard Phase 2/Candlestick Point Public Facilities and Services), and determining other matters in connection therewith

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EXECUTIVE SUMMARY

Consistent with the Disposition and Development Agreement for Candlestick Point and Phase 2 of the Hunters Point Shipyard (DDA) between the Office of Community Investment and Infrastructure (OCII) and CP Development Co., LLC (Developer), the Developer has requested that OCII form a community facilities district (CFD) to finance and maintain certain public improvements within the Project. OCII entered into contracts with members of the CFD financing team in September 2017 and is now taking the first step in the CFD formation process by presenting a Resolution of Intention to Establish CFD and a Resolution to Incur Bonded Indebtedness and Other Debt for the Commission's consideration.

The Resolution of Intention to Establish CFD does the following: (a) establishes the boundaries of the *Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9* (herein the "Hunters Point Shipyard Phase 2/Candlestick Point CFD"); (b) identifies the facilities and services to be financed by the CFD (Exhibit A); (c) contains the Rate and Method of Apportionment for Improvement Area No. 1 (Exhibit B), which determines the special tax rates for the first areas of development within the CFD (known as Improvement Area No. 1) and describes the method of tax levy; (d) establishes a total debt limit of $6,000,000,000 for the CFD, consisting of a $202,200,000 aggregate principal amount debt limit for Improvement Area No. 1, and a $5,797,800,000 aggregate principal amount debt limit for the CFD Future Annexation Area; and (e) calls for a public hearing on April 17, 2018 on the establishment of the CFD, Improvement Area No. 1, and the Future Annexation Area, and the levy of the CFD taxes in Improvement Area No. 1.

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

The Resolution of Intention to Incur Bonded Indebtedness and Other Debt declares the Successor Agency's intent to incur bonded indebtedness and other debt in amounts not-to-exceed $202,200,000 in Improvement Area No. 1 and $5,797,800,000 for areas that annex into the CFD from the Future Annexation Area, for a total debt limit of $6,000,000,000. Although each issuance is expected to have a 30-year term, the Resolution of Intention to Incur Bonded Indebtedness and Other Debt stipulates that debt can mature no later than 40 years from the date of its issuance. The Resolution of Intention to Incur Bonded Indebtedness and Other Debt also calls for a public hearing on April 17, 2018 on the proposed debt.

STAFF RECOMMENDATION

Staff recommend that the Commission (i) adopt a Resolution of Intention to Establish Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (Hunters Point Shipyard 2/ Candlestick Point Public Facilities and Services), Improvement Area No. 1 and a Future Annexation Area, and Determining Other Matters in Connection Therewith and (ii) adopt a Resolution of Intention to Incur Bonded Indebtedness and other debt in an amount not to exceed $6,000,000,000 for the Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (Hunters Point Shipyard 2/ Candlestick Point Public Facilities and Services) and Determining other matters in connection therewith.

BACKGROUND

Development of Hunters Point Shipyard Phase 2 and Candlestick Point (HPS2/CP) is governed by the DDA, which includes a Financing Plan. The Financing Plan provides that OCII will capture property tax increment to fund affordable housing and public infrastructure and will leverage public financing, such as tax increment/bonds and CFD special taxes/bonds, to reimburse the Developer for public infrastructure costs. The Financing Plan requires OCII to establish CFDs from time to time. As anticipated in the DDA and requested by the Developer, staff now seek Commission approval for the establishment of the HPS2/CP CFD, including Improvement Area No. 1 and a Future Annexation Area for the HPS2/CP CFD.

Community Facilities Districts in General

The Mello-Roos Community Facilities Act of 1982 allows OCII to establish a CFD to finance public improvements and services. Formation of a CFD requires two-thirds approval of the registered voters within the CFD, except when there are fewer than 12 registered voters within the boundaries of the CFD, in which case the property owners within the proposed CFD vote to approve or reject. Attachment 1 to this Memorandum sets out further information concerning the process for formation of CFDs.

Once a CFD is formed, a special tax is levied on both residential and non-residential taxable property in the district. Under the Mello-Roos Act, the revenue generated by the special tax can be used for two primary purposes:

- <u>Public Facilities</u>: Special taxes can be used to pay for costs of public facilities (i.e., public infrastructure) and debt service on bonds that are issued to fund such public infrastructure. These are typically called "Facilities Special Taxes." Appendix A of the Resolution of Intention to Form CFD includes a list of the public facilities that the HPS2/CP CFD is authorized to finance.

- <u>Public Services</u>: Special taxes can be used to pay for public services. Special taxes that fund services are typically called "Services Special Taxes." The Financing Plan calls for Services Special Taxes to fund ongoing costs of operating and maintaining improvements constructed under the Parks and Open Space Plan and open space surface improvements on the Yosemite Slough Bridge. The Services Special Taxes cannot be used to pay debt service on bonds. Appendix A of the Resolution of Intention to Form CFD contains a list of the public services that the HPS2/CP CFD is authorized to finance.

In addition to the annual special tax revenue generated by a CFD, OCII may also issue special tax revenue bonds whose debt service is paid over time with the Special Facilities Tax. This financing stream is critical for funding public infrastructure to be constructed in early stages of a project.

The Proposed HPS2/CP Facilities and Services CFD

Pursuant to the DDA, the Developer has proposed the details of the HPS2/CP CFD, including the boundaries and proposed special tax rates, which OCII may accept or reject. The proposed HPS2/CP CFD includes both a Facilities and a Services Tax, which are described in more detail below.

According to the Developer's proposal, the HPS2/CP CFD will consist of an initial area of taxation, referred to as Improvement Area No. 1 (covering Candlestick Point Major Phase 1, Sub-phase CP-04), and a Future Annexation Area, covering the remainder of the HPS2/CP Project. The purpose of establishing Improvement Area No. 1 and the Future Annexation Area is to allow the Developer and OCII to establish special tax rates only for those portions of the Project under active development, and to defer establishment of special tax rates for future development phases (those areas in the Future Annexation Area) until they are ready for development. This structure provides significant future revenue protection because each additional action to annex lands into the CFD will provide OCII and Developer the opportunity to establish, at that time, both the Facilities and Services Special Tax rates for those areas.

As development occurs in the Future Annexation Area, Developer (or its successors) may ask OCII to add (annex) future development phases to the CFD (which is likely to occur because the CFD provides a significant funding source to reimburse Developer for its infrastructure costs). When joining the CFD, the landowners may ask OCII to add their parcels to Improvement Area No. 1 (in which case they would be subject to the special tax rates in the proposed RMA for Improvement Area No. 1) or they may ask OCII to add their parcels to a new improvement area, in which case the parcels would be subject to a different RMA drafted by OCII's special tax consultant. The Resolution of Intention to Establish CFD describes the procedures by which properties may annex into the HPS2/CP CFD and the circumstances in which Commission approval is required.

Special Tax Rates and Methods of Levy for Improvement District No. 1

The Rate and Method of Apportionment of Special Tax (RMA) for Improvement Area No. 1, which is drafted by OCII's special tax consultant, and attached to the Resolution of Intention to Form CFD, establishes the amount of the Facilities Special Tax, the amount of the Services Special Tax, and their method of levy. The details of the special tax rates and their method of levy is described below.

<u>Facilities Special Tax</u>
The proposed Facilities Special Tax will be levied for a term not-to-exceed 75 years, which conforms to Financing Plan requirements. The Facilities Special Tax would be available both to directly pay for public infrastructure and to fund debt service on Mello-Roos Bonds, the proceeds of which would be used to pay for public infrastructure

Facilities Special Tax Rates. Staff, in cooperation with its special tax consultant, the City Infrastructure Task Force and the Developer, identified an estimated overall cost of public infrastructure anticipated to be reimbursed from Improvement Area No. 1, and using that amount, determined the expected Maximum Facilities Special Tax Rate for all property types within the proposed Improvement Area No. 1 (which are shown in Table 1 of the RMA for Improvement Area No. 1). These rates are consistent with the Financing Plan, which requires that at the time of the Resolution of Intention to Establish CFD, the aggregate tax rate on residential units (including both the CFD special taxes, the typical one percent ad valorem property tax rate, and other taxes and assessments) not exceed two percent of the estimated residential sales price. The Financing Plan contains no aggregate tax rate limitations on non-residential land uses. Rates for these land uses were established through negotiation with the Developer to ensure achievement of the CFD revenue goals as well as maintaining the Project area as a competitive location for commercial development. The tax rate for all land use types escalates at a rate of two percent per year. Pursuant to the RMA for Improvement Area No. 1, at all times after the first bond issuance for Improvement Area No. 1, regardless of changes in land use, the maximum amount of Facilities Special Taxes that can be levied within Improvement Area No. 1 will be sufficient to pay bond debt service and priority Administrative Expenses and provide additional coverage as required by the bond indenture (which is defined in the RMA for Improvement Area No. 1 as “Required Coverage”).

As per the Financing Plan, the RMA provides an annual escalator of the tax rate for all land use types of the lesser of CPI for All Urban Consumers in the San Francisco-Oakland-San Jose Region CPI or five percent.

Mello-Roos Bonds. It is anticipated that OCII will issue Mello-Roos Bonds serviced by the Facilities Special Tax. The Mello-Roos bonds would be issued in two "tranches.” The Financing Plan establishes a process by which OCII would issue “first tranche bonds” in the early years of each improvement area for the purpose of reimbursing the Developer for public infrastructure costs; specifically, for the first seven years after the initial issuance of bonds for each improvement area, the Developer may ask OCII to issue first tranche bonds. Under the Financing Plan, the first tranche bonds will be subject to a 3 to 1 value-to-lien requirement (i.e., the assessed or appraised value of property within the improvement area must be at least three times the principal of the Mello-Roos bonds and other bonds (if any) paid by assessments/special taxes on the same property). After those seven years, OCII has the right to issue “second tranche bonds” to pay for Additional Community Facilities, as defined in the Financing Plan, and any other public facilities authorized under the Mello-Roos Act, including physical adaptation activities necessary to protect public improvements from sea-level rise.

Services Special Tax

Staff, using its experience in maintaining public improvements in other Project Areas, and in cooperation with the Developer, identified an estimated overall cost for maintenance of public improvements anticipated to be reimbursed by the Services Special Tax, and using that amount determined the proposed Maximum Services Special Tax for all property types within the proposed Improvement Area No. 1 (which is set out in Table 2 of the RMA). The proposed Services Special Tax would be levied in perpetuity. The rates in the RMA are consistent with the Financing Plan, which requires that the services special tax rate on residential projects be limited to no more than 0.10 percent of the expected sale price at the time of the adoption of the Resolution of Intention to Establish CFD. There are no tax rate limitations on non-residential land use types. The tax rates for non-residential land use types were set to meet the Required Maintenance Revenue, which is the revenue required to fund necessary operations and maintenance for parks and open space. As per the Financing Plan, the Services Special Tax will not fund streetscape maintenance.

Method of Tax Levy

The Facilities Special Tax and Services Special Tax will be levied only on private development parcels and not levied on agency housing units and public parcels. This exemption supports development of affordable housing and public amenities.

The method of levy provides significant revenue protection. First, both the Facilities Special Tax and the Services Special Tax will be levied first on parcels for which a building permit for vertical development has been issued. If this levy generates insufficient revenue to meet the Required Coverage and Required Maintenance Revenue, the tax would next be levied on Vertical Development Property, which is property for which a development permit has not yet been issued, but for which an Assignment and Assumption of the DDA for vertical development has been recorded. If revenue is insufficient, the special tax would next be levied on Undeveloped Property. If the revenue is still insufficient, the special tax would next be levied on Expected Taxable Property, which is property that was expected to be taxable at the time of the development approval documents, but subsequently became exempt property due to a change in land use. Property that is originally expected to be developed for private taxable use but is subsequently sold to federal or state government entities fall into this category. Second, in the event that land use changes would have otherwise resulted in insufficient Special Tax revenue, the tax levy will be proportionately raised on all land use types within the area impacted by the land use change until the revenue is sufficient to meet Required Coverage and Required Maintenance Revenue. This approach provides additional revenue protection and further assurance that the CFD will meet the Required Coverage and Required Maintenance Revenue.

Affordable and Workforce Housing

As per the RMA for Improvement Area No. 1, neither the Facilities Special Tax nor the Services Special Tax will be levied on Agency Housing Units. However, both the Facilities Special Tax and the Services Special Tax will be levied on Developer's Inclusionary Units. As per Table 1 and Table 2 of the RMA, the Facilities Special Tax and the Services Special Tax rates are sized proportionate to the affordability of the unit. For example, 120 percent Below Market Rate Units pay $466.96 per unit for the Special Services Tax, but 80 percent Below Market Rate Units pay only $280.63 per unit. The special tax consultant performed an analysis to demonstrate that the proposed rates for inclusionary units are consistent with the affordability level of those units.

As per the deed restriction for both Candlestick Workforce Apartments and Shipyard Workforce Apartment Units (Workforce Apartment Units), the units will be rental for the first five years of occupancy, and will convert to home ownership after the 5th year. During the first five years of occupancy, the Workforce Apartment Units will be levied at the Candlestick Workforce Apartment and Shipyard Workforce Apartment Unit rates listed in Table 1 and Table 2 of the RMA. When the units convert to home ownership, they will be levied at the Candlestick Workforce For-Sale Unit and Shipyard Workforce For-Sale Unit rates in Table1 and Table 2 of the RMA. As the Workforce Apartment Unit rates are less than the Workforce For-Sale rates, this structure is consistent with the affordability of the Workforce Apartment Units.

Administration

There are four legal parcels within Improvement Area No. 1 of the proposed HPS2/CP CFD. These parcels are owned by the Developer and affiliates of the Developer. Thus, if the Commission initiates the CFD formation process, these four property owners will vote to impose the CFD.

If formed, the Commission will act as the legislative body for the CFD. A consultant will act as the CFD Administrator, calculating and levying the taxes based on the applicable RMA. On September 19, 2017, the Commission approved a contract with Goodwin Consulting Group to service as the CFD administrator for a three-year term ending September 30, 2020. To the extent consistent with the Mello-Roos Act then in effect, OCII expects to transfer the HPS2/CP CFD to the City upon its dissolution, and the Board of Supervisors will become the legislative body for the CFD.

PROPOSED COMMISSION ACTION

The Commission is considering two actions in furtherance of the formation of the HPS2/CP CFD (including Improvement Area No. 1 and the Future Annexation Area): approval of the Resolution of Intention to Establish CFD and approval of the Resolution of Intention to Establish Bonded Indebtedness and Other Debt.

The Resolution of Intention to Establish CFD lists the boundaries of the HPS2/CP CFD, Improvement Area No. 1 and Future Annexation Area; contains a list of facilities and services to be financed by the HPS2/CP CFD (Exhibit A) and contains the RMA for Improvement Area No. 1 (Exhibit B). The RMA for Improvement Area No. 1 determines the special tax rates and describes the method of levy. The Resolution of Intention to Establish CFD also limits the debt related to Improvement Area No. 1 to an aggregate principal amount of $202,200,000, and limits the debt related to areas that annex into the CFD from the Future Annexation Area to an aggregate principal amount of $5,797,800,000, for a total debt limit of $6,000,000,000. Finally, the Resolution of Intention to Establish

CFD calls for a public hearing on April 17, 2018 on the establishment of the HPS2/CP CFD, Improvement Area No. 1, and the Future Annexation area, and the levy of the Facilities Special Tax and Services Special Tax in Improvement Area No. 1.

The Resolution of Intention to Incur Bonded Indebtedness and Other Debt declares the Successor Agency's intent to incur bonded indebtedness and other debt in amounts not-to-exceed $202,200,000 in Improvement Area No. 1 and $5,797,800,000 for areas that annex into the CFD from the Future Annexation Area, for a total debt limit of $6,000,000,000. Although each issuance is expected to have a 30-year term, the Resolution of Intention to Incur Bonded Indebtedness and Other Debt stipulates that debt can mature no later than 40 years from the date of its issuance. The Resolution of Intention to Incur Bonded Indebtedness and Other Debt also calls for a public hearing on the proposed debt on April 17, 2018.

ENVIRONMENTAL REVIEW

The formation of the HPS2/CP CFD is not a Project as defined by the California Environmental Quality Act Guidelines Section 15378, and would not independently result in a significant physical effect on the environment.

NEXT STEPS

Staff will record the HPS2/CP CFD Boundary Map with the Assessor-Recorder's Office within 15 days of the passage of the Resolution of Intention to Form CFD. Staff will also mail ballots and return envelopes to the four property owners prior to the public hearing and property-owner election on April 17, 2018. Following the hearing, the OCII Commission will consider a Resolution of Formation of the CFD, Resolution Declaring Necessity to Incur Bonded Indebtedness and Other Debt, and a Resolution Calling a Special Election. If the Commission adopts the Resolution Calling a Special Election, OCII will hold the election. If the vote at the election is favorable, the Commission will consider a Resolution Confirming Results of Election and Directing Recording Notice of Special Tax Lien, a Resolution Approving the Issuance of Bonds, and an Ordinance Authorizing the Levy of Special Taxes.

(Originated by Bree Mawhorter, Deputy Director of Finance and Administration)

Nadia Sesay
Executive Director

Attachment 1: Community Facilities District Formation Process

Attachment 1: Community Facilities District Formation Process

The Mello-Roos Community Facilities Act of 1982 establishes the following formation procedures for community facilities district, which are generally outlined as follows:

1. Adopt a Resolution of Intention to Form CFD, including establishing the boundaries of the CFD, any improvement areas and a Future Annexation area, approving the RMA, approving a list of authorized public improvements and services, and establishing a bonded indebtedness limit.
2. Adopt a Resolution of Intention to Incur Bonded Indebtedness and Other Debt, including identifying the not-to-exceed principal amount of bonds issued for the CFD and any improvement areas.
3. At a subsequent meeting (approximately 30-60 days later):
    a. Hold a public hearing on the proposed CFD formation and bonded indebtedness and other debt.
    b. Adopt a Resolution of Formation of the CFD, Resolution Declaring Necessity to Incur Bonded Indebtedness and Other Debt, and a Resolution Calling a Special Election for the CFD. Hold an election of the qualified electors. If two-thirds of the ballots cast in the special election are in the affirmative, the landowners have approved the formation of the CFD, the levy of special taxes, the issuance of bonds and other debt, and an appropriations limit for the CFD.
    c. Adopt a Resolution Confirming Results of Election and Directing Recording Notice of Special Tax Lien. The Notice of Special Tax Lien is recorded in the real property records and affects all taxable parcels in the CFD.
    d. Adopt a Resolution Approving the Issuance of Bonds.
    e. Introduce an Ordinance Ordering Levy of Special Taxes.
4. At a subsequent meeting, adopt the Ordinance Ordering Levy of Special Taxes.

The Mello-Roos Act requires that local agencies may establish CFDs only after they have adopted Local Goals and Policies for Community Facilities Districts. The SFRDA Commission approved the Amended and Restated Local Goals and Policies for Community Facilities Districts on July 15, 2008, which remain in effect. These policies meet the requirements of the Mello-Roos Act.