MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Tiffany Bohee
Executive Director

SUBJECT: Resolution adopting environmental findings pursuant to the California Environmental Quality Act; Authorizing an amendment to an Enforceable Obligation under the Dissolution Law approving a Sixth Amendment to the Hunters Point Shipyard Phase I Disposition and Development Agreement between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and HPS Development Co., LP; Hunters Point Shipyard Redevelopment Project Area.

Resolution adopting environmental findings pursuant to the California Environmental Quality Act; Authorizing an amendment to an Enforceable Obligation under the Dissolution Law approving First Amendment to the Disposition and Development Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyard) between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and CP Development Co., LP; Hunters Point Shipyard and Bayview Hunters Point Redevelopment Project Areas.

EXECUTIVE SUMMARY

Hunters Point Shipyard ("Shipyard") and Candlestick Point areas are comprised of approximately 750 acres along the southeastern waterfront in San Francisco. Through a public-private partnership with a master developer, these long-abandoned waterfront lands will be transformed into productive areas for jobs, parks, and housing, including affordable housing. The project will deliver 12,100 new homes, up to 3 million square feet of research and development space, and more than 350 acres of new parks in the southeast portion of San Francisco. The project will deliver unprecedented public benefits including more than 11,000 permanent jobs at a wide-spectrum of income levels, over $6 billion of new economic activity to the City, as well as a wealth of additional and improved parks and transit facilities.

The development project will occur in two phases, Phase 1 and Phase 2 (together the "Projects"), each governed by a Disposition and Development Agreement ("Phase 1 DDA" and "Phase 2 DDA" respectively, and together the "DDAs") between the former Redevelopment Agency, now the Successor Agency (the "Agency"), and separate but related developers led by Lennar Urban (collectively, "Lennar" or the "Developer"). The DDAs generally provide for the transfer of land from the Agency to the master developers, with rights and obligations relating to the construction of specified improvements, and the financing mechanisms for completing these development projects.
With the Phase 1 project well underway (70-80 percent of the horizontal infrastructure construction is complete), and the Phase 2 entitlements fully in place, the Developer is seeking financing for the development of both phases together, and in the process has identified certain amendments and clarifications to the DDAs that will further facilitate financing for the Projects, and streamline the processes under the DDAs, while preserving the community benefits that were included in these agreements.

In order to facilitate the financing for the development of both phases together, the Agency is proposing a Sixth Amendment to the Phase 1 DDA ("Phase 1 Sixth Amendment," attached as Exhibit A) and a First Amendment to the Phase 2 DDA ("Phase 2 First Amendment," attached as Exhibit B) (together, the "Amendments") that will enable the Developer to access financing to move the Projects forward. The effect of these amendments is to enhance the feasibility of the project in its early stage, and to ensure that the holders of the enforceable obligations and taxing entities receive benefits as soon as commercially possible (the benefits to the taxing entities are explained later in this memorandum under, "Compliance with Dissolution Laws").

The Amendments will enable the Developer to respond to the current market, to ensure that the Projects can maintain momentum, and to facilitate financing to be obtained for the Projects. The financing the Developer is seeking will, if obtained (1) allow for the completion of horizontal infrastructure and commencement of vertical development on Phase 1, (2) provide for homes to be marketed on a for sale or for rent basis consistent with market demands, (3) accelerate the delivery of affordable housing, and 4) make clarifying changes to the terms of the DDAs.

The Agency is authorized by Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) and Assembly Bill 1484 (Chapter 26, Statutes of 2011-12, Regular Session) (collectively, the "Dissolution Law"), to (1) perform obligations required pursuant to any enforceable obligation, and (2) continue to oversee development of properties until the contracted work has been completed. Pursuant to the Dissolution Law, the DDAs are enforceable obligations, and the Amendments are both consistent with and necessary to carrying out the obligations of the DDAs (a summary of the Agency's enforceable obligations is attached at Exhibit D).

On December 10, 2012, the Oversight Board approved the Amendments, made findings that the Amendments are in the best interests of the affected taxing entities, and authorized the Community Investment and Infrastructure Commission to approve the amendments in accordance with the Dissolution Law. The Amendments were also presented and discussed at the December 10, 2012 meeting of the full Hunters Point Shipyard Citizens Advisory Committee ("CAC") and the CAC was in support of the Amendments.

*Staff recommends that the Commission authorize the Successor Agency to amend an enforceable obligation under the Dissolution Law by approving a Sixth Amendment to the Hunters Point Shipyard Phase 1 Disposition and Development Agreement between the Successor Agency and HPS Development Co., LP and authorize actions consistent with the Sixth Amendment.*

*Staff recommends that the Commission authorize the Successor Agency to amend an enforceable obligation under the Dissolution Law by approving a First Amendment to the Hunters Point*
Shipyard Phase 2 Disposition and Development Agreement between the Successor Agency and CP Development Co., LP and authorize actions consistent with the First Amendment.

BACKGROUND

The Shipyard is located within the Bayview Hunters Point ("BVHP") neighborhood in southeast San Francisco, and Candlestick Point is adjacent to the Shipyard on its southern end. The Shipyard was a major center of employment for the community, providing logistics support, and construction and maintenance services for the United States Department of the Navy ("Navy") from World War II until 1974, when it was effectively shut down. At its peak, the Shipyard employed 17,000 civilian and military personnel, many of whom lived in the adjacent neighborhood. The closure of the Shipyard had profound negative impacts on the economic base of the local community, contributing to a high unemployment rate that has remained more than double the rate citywide.

Since 1997, with the adoption of the Hunters Point Shipyard Redevelopment Plan, the Agency has engaged in an intensive community-based planning process for redevelopment of the former Naval Shipyard. Following an extensive request for qualifications, the Redevelopment Commission approved an Exclusive Negotiations Agreement with Lennar-BVHP, LLC") to become the master developer of the site and on December 2, 2003 the Redevelopment Agency entered into the Phase 1 DDA with Lennar/BVHP.

On March 31, 2004, the Navy and the Agency entered into a Conveyance Agreement that sets forth the framework for the Shipyard's phased clean up, consistent with the intended use of the property, and the phased transfer of the Shipyard parcels to the Agency. Subsequently, on December 3, 2004, the Navy conveyed the first 75 acres of the Shipyard following remediation by the Navy ("Parcel A") to the Agency, and on April 5, 2005, the Agency transferred the non-public parcels within Parcel A to Lennar. Parcel A was the first portion of the Shipyard that was cleared for residential development and enabled the implementation of the development program in the Phase 1 DDA.

Phase 1 DDA

Although the Phase 1 DDA has been amended since its approval in December 2003, the development program remains substantially the same. The First Amendment to the Phase 1 DDA, approved in April 2005, recognized the satisfied closing conditions required in the Phase 1 DDA, and authorized the Agency to transfer the non-public portions of Parcel A to Phase 1 Developer and execute an Interagency Cooperation Agreement between the Agency and the City and County of San Francisco to ensure coordination and cooperation amongst all City departments and commissions with jurisdiction over the project. The Second Amendment to the Phase 1 DDA, approved in October 2006, adjusted the project's for-sale and for-rent housing development ratio and schedule of performance to respond to the housing market conditions and the Navy's delayed Parcel B remediation schedule (thus removing Parcel B from the Phase 1 development). The Third Amendment to the Phase 1 DDA, approved in August 2008, adjusted the project's schedule of performance to reflect the cumulative effects of project construction delays and better coordinate the completion of the horizontal construction with that of the vertical construction. The Fourth Amendment to the Phase 1 DDA, also approved in
August 2008, authorized the Agency to approve new financial partners, assign and amend certain rights and obligations under the Phase 1 DDA to the new venture, and clarified the Agency and Developer’s rights and obligations in completing the Shipyard’s infrastructure construction. The Fifth Amendment, approved in August 2009, streamlined the land delivery and sales process, provided for the Developer’s payment of advances to the Shipyard Legacy Fund, the first of which was made in 2012, and made other technical changes.

The key features of the Phase 1 Project include:

- Construction of new horizontal infrastructure improvements (utilities, street grid systems and streetscape improvements) and the delivery of finished lots for vertical development;
- The creation of entitlements for approximately 1,498 residential units (218 of which will be Agency-sponsored affordable housing units), including a robust affordable housing program which ensures overall that a minimum of 27 percent of the total number of units will be affordable;
- Approximately 10,000 square feet of commercial development, including job-generating retail;
- Construction of 26 acres of open space and parks;
- Provision of six acres of land set aside for development of community facilities (1.2 acres in Phase 1 and 4.8 acres in the Phase 2 portion of the Shipyard’s development), the mix of uses of which are presently being determined through a community-based planning process;
- Implementation of a Community Benefits Agreement benefiting community residents, community-based organizations and businesses through job training, hiring, contracting and development opportunities;
- Provision of facilities for current artist tenants and participation of local artists in public art;
- Participation in the Agency’s equal opportunity and workforce programs;
- Provision of substantial financial guarantees by the Developer, including a letter of credit securing the entire amount of the Mello-Roos bonds used to partially fund public infrastructure; and
- Reinvestment of the Agency’s portion of land sales net revenue from the Shipyard, into the Shipyard Legacy Fund to be managed for the benefit of the BVHP community in accordance with the Phase 1 DDA’s Attachment 23.

With participation by local community-based organizations, the Phase 1 Developer commenced deconstruction and demolition activities on Parcel A in the spring of 2005 as the first step in the construction of the horizontal improvements. Mass grading, the next phase of construction, was completed on Parcel A in 2007 and the final stage of horizontal improvements, infrastructure, is currently underway and Hilltop infrastructure is more than 90 percent complete. The Phase 1 Developer has also finished the final map (a technical document which establishes legal, serviceable and developable lots) and subdivision process for the Phase 1 project in
August 2009, and has been actively marketing portions of the Shipyard to developers for vertical construction.

**Phase 2**

In 2007, the Mayor, Board of Supervisors and Redevelopment Commission endorsed a resolution urging the Redevelopment Agency to extend the planning for the Hunters Point Shipyard to include Candlestick Point. The support for Lennar as the Master Developer of the combined Shipyard/Candlestick development was underscored by San Francisco voters’ overwhelming approval of the “Bayview Jobs, Parks and Housing Initiative” (Proposition G) in 2008, which outlined the goals and principles upon which the City may move forward with redevelopment of the integrated area. On June 3, 2010, the Agency approved the Phase 2 DDA between the Agency and CP Development Co., LP (“Phase 2 Developer”). The Phase 2 DDA obligates the Phase 2 Developer to construct the infrastructure necessary to support the development of the remainder of the Shipyard and Candlestick Point, including the Alice Griffith Public Housing site.

The key features of the Hunters Point Shipyard Phase 2/Candlestick Point project include:

- 10,500 residential units, 32 percent of which will be offered at below-market rates,
- More than 350 acres of new and improved public parks, recreational fields, open spaces and waterfront trails and plazas;
- 885,000 square feet of regional and neighborhood-serving retail space;
- 255,000 square feet of new and renovated replacement space for the Shipyard artists, including an arts education center within a new “Arts District” supporting the vibrant artist community;
- More than 3 million square feet of commercial, light industrial, research and development and office space, including a new United Nations Global Compact sustainability and technology center;
- New public and community facilities on the Shipyard and Candlestick Point including a new fire station, an expanded police station, and site for a new school; and
- Implementation of a robust Community Benefits Agreement that includes approximately $83 million in subsidies for education, workforce development, community health, and other priorities of the BVHP community.

Together, these projects will invest nearly $3 billion in new public infrastructure, including new roadways, transit facilities, open space, affordable housing and other community benefits and more than $8 billion in private investment in new homes and job-generating uses. In addition, the Navy has spent $814 million toward environmental remediation of the site. The projects combined will produce 500-800 construction jobs per year and more than 12,000 permanent jobs over the next 20-25 years.

These opportunities will be subject to the Agency’s Equal Opportunity Program goals and requirements, designed to maximize employment for economically disadvantaged local residents.
and businesses. The Project will provide a range of additional programs designed to create opportunities for small and local businesses, including:

- $8,925,000 to fund workforce training and placement programs for local residents, which will be matched by the City’s Office of Economic and Workforce Development with compatible programs.
- A community builder program designed to support the participation of local builders in the construction of both market-rate and affordable housing;
- $2,500,000 for construction assistance programs designed to provide technical assistance and contractor workshops in conjunction with local hiring and disadvantaged business programs;
- $1,000,000 contribution towards the Agency’s surety bond program designed to assist local contractors in obtaining insurance and credit support, and
- A community realtor program designed to provide specific opportunities for licensed brokers in the area.

In addition, the Project documents will require any hotel or restaurant project constructed in the Project to comply with the Agency’s Card Check Policy, as well as for custodial, security, stationary engineering services and grocery stores.

Financing Structure

The Phase 1 DDA horizontal improvements are financed by Developer sources, community facilities district (“CFD”) special taxes and the issuance of Mello-Roos or CFD bonds secured by those taxes, and the sale of completed market rate lots to vertical developers. Phase 1 does not include a pledge of property tax increment to the Developer, but the Agency agreed to build a specified amount of affordable housing in Phase 1 using property tax increment.

The Phase 2 DDA relies on the same financing tools, but due to the complexity and significant cost of the Phase 2 build-out, the Agency and the City made an enforceable pledge and allocation of all of the available property tax increment generated within the development area for eligible project costs in accordance with California’s redevelopment law or “CRL”. The Agency also agreed to issue tax allocation bonds and to use the 20 percent tax increment set aside under CRL (the “Housing Increment”) for the Agency affordable housing. These public funding sources, including the CFD and tax increment financing, were required to obtain the significant upfront private investment required for development and achieve a commercially reasonable return on that investment.

DISCUSSION

Need for Amendments

The Phase 1 and Phase 2 projects together represent more than $10 billion of construction over the next 30 years, achieving a wide variety of objectives including the rebuild of Alice Griffith public housing, preservation of historic buildings, the largest parks construction project since Golden Gate Park, a new tier of workforce housing for middle-income earners in San Francisco, preservation of the largest artist colony on the west coast, reconfiguration of State Parks and new
models for streetscape and urban design. As such, the Projects require significant and diverse sources of financing to be completed. The Developer continues to seek additional sources of financing to diversify the interests in the Project and to lower the cost of capital to the Projects. In seeking this financing the Developer has learned that the Phase 1 and Phase 2 Projects together present a more attractive financing opportunity than either one on its own. To better market these opportunities together, several adjustments are required to make the DDAs consistent with each other and with similar agreements in the City, to reduce certain barriers to underwriting a loan or partnership, and to clarify technical aspects of the DDAs.

Summary of Amendments

PHASE 1

1-A. Proposed: Permit Phase 1 Developer to obtain loan financing for the infrastructure improvements secured by a customary mortgage and other security instruments on Phase 1 Developer’s interests in the property and the project in a manner that recognizes the interrelationships between Phase 1 and Phase 2 by linking and leveraging mortgages between them.

Current: The current Phase 1 DDA does not allow for mortgaging of the property or project as the developer constructs the project. Without the ability to mortgage the developer’s interest in the property and the project it is difficult, if not impossible, for the developer to obtain loan financing for the improvements on the property.

Analysis: The proposed amendment includes two components: 1) enabling mortgaging of the developer’s interest in the property or the project and 2) allowing any such mortgage to also encumber the Phase 2 project, effectively cross-collateralizing the two projects. When the Phase 1 DDA was originally contemplated it was not envisioned that traditional lending would be a means of financing horizontal development of the project. Enabling mortgaging of the developer’s interest in the property and the project makes available an essential tool for real estate development without limiting an existing or future Mello Roos financing. The proposed change is consistent with other projects in the City, including the Phase 2 Project.

A new provision allowing for cross-collateralization between the Phase 1 and Phase 2 projects would allow lenders to rely upon land values derived from infrastructure completed as part of the Phase 1 project to provide security for the additional funding that will be used for both Projects going forward. By mortgaging both Projects together, the lender would be provided with maximum security, and enable the Projects to continue to proceed as an integrated and inter-related whole. Improving the ability to finance the Projects will help to ensure that affordable and market-rate sites are delivered on schedule, and that tax increment generated by these new properties will then flow to the taxing entities.

1-B. Proposed: (i) Permit the required 50 percent Area Median Income ("AMI") Inclusionary Units to be developed in one dedicated affordable housing block (Block
49) on Phase 1 (ii) provide a Developer subsidy to ensure its completion, and (iii) provide an additional $1 million affordable housing subsidy to the Agency to be used for the Alice Griffith Public Housing rebuild or other affordable housing in the Projects. Change the inclusionary requirement from 15 percent to 10.5 percent (which simply accounts for the placement of the 50 percent AMI Units on Block 49, but does not change the total number of anticipated affordable units), and allow Developer flexibility in designating the percentage of inclusionary units in each residential project (but not less than 5 percent or more than 20 percent) so long as the 10.5 percent inclusionary requirement is met on specified milestone dates.

**Current:** Under the existing Phase 1 DDA, the Phase 1 Developer is obligated to dedicate 15 percent of the residential units built within the Phase 1 market-rate blocks to households earning up to 80 percent of AMI. Approximately 30 percent of such units (approximately 60 units) must be dedicated to households earning up to 50 percent AMI with the remainder at 80 percent. Block 49 is currently designated as a market-rate block.

**Analysis:** The proposal would shift the obligation to construct the 50 percent AMI units within the market-rate blocks to a dedicated affordable housing block, Block 49. So this market rate lot will now become a dedicated affordable housing block. Units restricted to this depth of affordability (i.e., 50 percent AMI) are less costly to construct and administer in a dedicated stand alone affordable housing project than they are to develop within market-rate blocks. By reducing these costs, and dedicating Block 49 to the 50 percent AMI units, the Project will build the same total number of 50 percent AMI units as were anticipated at full buildout and do so sooner than if they are distributed among many market-rate blocks (that will be built out over the remainder of the Phase 1 Project). To ensure that this earlier development occurs, fulfills the Phase 1 Affordable Housing Program goals, and maximizes the public benefits related to this change, Developer has agreed to pay the specified subsidies (i.e. both the $1 million and the required gap financing) that are not currently required under the Phase 1 DDA.

By creating a new dedicated lot for affordable housing, accelerating the delivery of 50 percent AMI units and providing the additional subsidy that would not have otherwise existed, Agency and Mayor’s Office of Housing (“MOH”) staff concur that the amendment would improve the affordable housing program on the Shipyard. The amendment also reduces barriers to financing market-rate blocks that would have carried the 50 percent AMI units as inclusionary units, thus improving and potentially accelerating the increase in land values, and hence tax increment that would become available to the taxing entities.

By putting all of the 50 percent AMI Units on Block 49, these units are then removed from the Developer’s market rate inclusionary obligations – resulting in a reduction from 15 percent inclusionary to 10.5 percent inclusionary on the market rate residential projects. But there will be no change in the total number of affordable housing units, at either the 80 percent AMI or the 50 percent AMI level. Allowing
the Developer some flexibility on the number of inclusionary units in each market rate development, so long as it is at least 5 percent and not more than 20 percent and meets the required total aggregate 10.5 percent requirement on 5 specified milestone dates, is consistent with the flexibility provided to the Developer under the 5th Amendment to the Phase 1 DDA and the Phase 2 DDA, as well as that provided to developers of other large development projects in San Francisco. This flexibility further enhances the financeability of the Project and the likelihood of a successful development project that is responsive to market forces.

1-C. Proposed: Permit Phase 1 Developer to provide bonds or other security acceptable to the Agency for assuring the satisfactory completion of the infrastructure in an amount equal to 125 percent of the estimated cost to complete the infrastructure and a guaranty for its non-construction financial obligations under the Phase 1 DDA in an amount equal to $5 million.

Current: The Phase 1 DDA requires security in an amount equal to 200 percent of the estimated cost to complete the infrastructure, and no cap or limit on the Developer's guaranty for its obligations under the Phase 1 DDA.

Analysis: When the Phase 1 DDA was approved, the area surrounding the Shipyard had limited land values and the Agency had a strong desire to ensure that the commitment to advance redevelopment of the Shipyard was realized. At that time, a 200 percent security was believed to be necessary in order to release the Agency's right of reverter and ensure that the Developer would complete the Project. Today, the Phase 1 Developer is substantially complete with infrastructure on the Hilltop portion of the Phase 1 site and the Hillside portion is at least 60% complete. Accordingly, the provision of security in an amount equal to 125 percent of the estimated cost to complete the infrastructure is sufficient to ensure the completion of these improvements. Further the proposed 125 percent security is consistent with other projects in the City, and is in excess of the 100 percent security required by the City's Department of Public Works for infrastructure projects. The reduced security obligation will enable a less burdensome and more financially efficient infrastructure development program and allows for a more productive use of capital, which can accelerate development and thereby improve the Project's ability to generate tax increment.

In administering the security requirement, staff will require up-to-date cost estimates and include an allowance for future inflation for the time period over which the infrastructure is expected to be completed. With respect to the limit on Developer's guaranty, the same principles apply for the same reasons. Furthermore, the reduced guaranty amount and security are appropriate for the level of completion that Phase 1 has achieved. When the Phase 1 project was approved in 2003, there were many development and market uncertainties for Phase 1 and Phase 2. Since then, many milestones have been achieved, many uncertainties have been removed, and the development program is well defined. With Projects fully entitled and having full
environmental clearance, the development risk has been significantly reduced, and the Projects' have a clear development path forward. Reconciling the security and guaranty requirements between the two Projects is consistent with the proposal to treat them consistently for purposes of obtaining the necessary third party financing, and will increase the marketability and financeability of the Projects by providing clarity and consistency for potential investors.

1-D. **Proposed:** Update the Schedule of Performance for the Hillside (Block 48) portion of Phase 1 to require its completion by December 2017.

**Current:** The current Schedule of Performance requires completion of the Hillside by February 2013.

**Analysis:** The extension permits the Phase 1 Developer to focus its efforts on completing the housing units on the Hilltop portion of the Phase 1 Project and better coordinate the Hillside development with the adjacent Phase 2 development which is slated to begin in 2017. When the phasing of Phase 1 blocks was originally developed, the plans and approvals for the Phase 2 project were not in place. Now that the Agency and Developer have prioritized construction on the Alice Griffith public housing development and the remainder of the Shipyards, the delayed delivery of the Hillside is logical and enhances the marketability of home sites sold within the projects. Between Phase 1 and Phase 2 the number and pace of delivery for affordable and market-rate housing units will be the same as it would under the current DDA.

1-E. **Proposed:** Permit both for-sale and for-rent Residential Units to be developed in Phase 1.

**Current:** The Phase 1 DDA requires that all of the Phase 1 units are for-sale, and any rental of units must be reauthorized by the Agency on an annual basis.

**Analysis:** When the Phase 1 DDA was approved, extraordinary increases in rents and home prices in San Francisco lead to a policy concern over preserving the availability of entry-level homeownership opportunities in San Francisco. Through ensuing market cycles it has become clear that allowing for flexibility, especially in a down market, can ensure that vacant lots do not go undeveloped. The proposed amendments (i) lift the restriction on for-sale units within market rate lots, and (ii) allow a vertical developer to request the ability to rent a for-sale unit or sell a for-rent unit based on market conditions, with appropriate tenant and resident restrictions as contemplated by the Affordable Housing Program, subject to the Agency Director's consent. The amendment would make the Phase 1 affordable housing requirements more consistent with that of Phase 2 and enable the Developer to respond to market trends and facilitate a more responsive and flexible Phase 1 development. The affordable units would continue to be included in either for-sale or rental developments as is currently required in the Phase 1 DDA.
1-F. **Proposed:** Amend the terms for the Agency’s option to acquire market rate units as defined in Section 3.5(e) of the Affordable Housing Program to be the price offered to the public minus six percent.

**Current:** The Phase 1 DDA provides the Agency the option to purchase up to 15 percent of the Developer’s market-rate units in each Major Phase at the purchase price of the Developer’s costs plus 10 percent.

**Analysis:** The benefit of this Amendment is a positive impact on the established land values since it makes the development a more attractive and marketable land portfolio for potential investors. Assuming the price offered to the public at any point in time is the market price, it is difficult to say how this change might affect the exact amount the Agency could pay for a unit, since it depends on market conditions at the time, as well as land values and construction costs. In an appreciating market the price could be more, but in a depreciating market, it could less than what the Agency would pay under the current formula. Maintaining this favorable option price, without the likely ability to utilize it, would unnecessarily impact the Developer’s ability to obtain financing or perhaps make that financing more expensive, which could either lessen the amount or delay the timing of funds for other Project elements.

**PHASE 2**

2-A. **Proposed:** Permit the Phase 2 Developer to cross-collateralize the Phase 1 and Phase 2 projects as described above for Phase 1. Clarify the parties’ intent that mortgages can encumber both Developers’ interest in the Project and the land, including Developer’s interest in the DDA, also as described above for Phase 1. Provide for consistent mortgagee protection provisions between the two DDAs.

**Current:** The Phase 2 DDA limits Developer’s rights in mortgaging to the Phase 2 Project only.

**Analysis:** The proposed amendment enables the cross-collateralization provisions described above for Phase 1. The provision would facilitate financing for both Phase 1 and Phase 2 without impacting the availability of Mello Roos and tax increment financing on the property (as contemplated and required under the Phase 2 DDA). Finally, the proposed amendment would clarify the intent of the parties to permit mortgages and related security instruments that encumber both Developer’s interest in the Project and in the applicable land, including Developer’s interests in the DDA.

2-B. **Proposed:** Require the Agency to release its right of reverter (i.e., the right to take back land transferred to developer following a default) in a Sub-Phase, or not obtain this right, if Developer provides bonds or other security acceptable to the Agency.
equal to 125% of the estimated cost of completing all of the horizontal infrastructure in that Sub-Phase.

Current: The current terms of the Phase 2 DDA require the Developer to provide a reversionary quitclaim deed to the Agency whenever the Agency transfers land to Developer to ensure completion of the horizontal infrastructure. The Agency may release this reverter after the Developer begins to construct the horizontal improvements if the Developer provides bonds or other security acceptable to the Agency in an amount equal to 150 percent of the estimated cost to complete to ensure completion of infrastructure.

Analysis: The provision of security/bond in an amount equal to 125 percent of the estimated cost to complete the horizontal improvements is sufficient to ensure the timely delivery of the infrastructure, is consistent with other projects in the City, and is in excess of the 100 percent security/bonding required by the City’s Department of Public Works for infrastructure projects. Further, this will enable a more financially efficient infrastructure development and is a more productive use of capital, which in turn should facilitate the flow of tax increment to the taxing entities.

COMPLIANCE WITH DISSOLUTION LAW

Both the Phase 1 DDA and the Phase 2 DDA are enforceable obligations under Redevelopment Dissolution Law that survived the dissolution of the Redevelopment Agency and that became the obligations of the Successor Agency. The Successor Agency has listed both DDAs on the three Recognized Obligation Payment Schedules that the Department of Finance has approved. A more detailed discussion of the Projects and the DDAs was also attached as Exhibit B-3 to the Oversight Board Resolution No. 5-2012, without Department of Finance objection to the Projects as enforceable obligations.

Oversight Board Actions

Under AB26 and AB1484, the Oversight Board is charged with a fiduciary obligation to both the beneficiaries of the DDAs and the taxing entities, and the changes reflected in both the Sixth Amendment to the Phase 1 DDA and the First Amendment to the Phase 2 DDA assist the Oversight Board in meeting that fiduciary duty. At its December 10, 2012 meeting, the Oversight Board approved the Amendments together with a finding that the amendments will facilitate real estate development financing for the Project, expedite the Project, and retain appropriate security and guaranties for the benefit of the Successor Agency that are consistent with other major mixed-use development projects in the City and County of San Francisco, thereby enhancing and promoting the development and completion of the Project, and the winding down of the Agency’s affairs. The proposed Amendments are in the best interests of the taxing entities because the Amendments make the Project more attractive to large scale investors, bond buyers, and other lenders who may provide more favorable financing terms, which will reduce the cost of capital, enabling more efficient cost allocation, accelerating development in the early phases of the Projects, and ultimately increasing the land and home values upon which the property tax basis is established. Having made this finding, the Oversight Board also authorized the Commission to approve the amendments as provided for by Dissolution Law. On December 11,
2012 the State of California Department of Finance indicated that it will review this action, triggering the 40-day review period that is allowed to them by statute.

CAC Review

The Amendments were presented to the CAC at its December 10, 2012 meeting. CAC members asked clarifying questions of staff which were addressed in the meeting, and the CAC voiced support for the Amendments.

California Environmental Quality Act ("CEQA")

Environmental Impact Reports ("EIRs") for both Phase 1 and Phase 2 were certified by the Redevelopment Commission and the San Francisco Planning Commission in 2000 (for Phase 1) and 2010 (for Phase 2). The documents are available for review at the Agency’s office and online on the Agency website.

In approving the DDAs, the Agency adopted CEQA findings and statements of overriding considerations in support of approval of the Projects. Approval of the Amendments will further the implementation of the Projects as described by the EIRs and is, therefore, within the scope of the environmental analysis in the EIRs and will not result in any new significant impacts or a substantial increase in the severity of previously identified significant effects that alter the conclusions reached in the EIRs. Therefore, approval of the Amendments does not require revisions to the EIRs and the CEQA findings and statements of overriding considerations that the Agency adopted at the time the DDAs were approved, and may be adopted again by the Commission as findings for approving the Amendments.

STAFF RECOMMENDATION AND CONCLUSION

The proposed Amendments have been reviewed by the Agency’s independent financial real estate consultant (attached as Exhibit C), who finds that the Amendments strengthen the competitiveness of the project in the context of other real estate investment opportunities in the region and improve the Developer’s ability to attract financing sources to provide the capital necessary to advance the project. The Agency in consultation with MOH has reviewed the impacts of the Amendments on the delivery and timing of public benefits including affordable housing. Further, the increased likelihood of project financing mitigates potential risk associated with reducing security requirements, which were imposed before the Developer had completed improvements within the Phase 1 project, and improves the Developer’s ability to deliver early benefits in Phase 2 such as rebuilding of Alice Griffith public housing, Northside community park, certain streetscape improvements in the surrounding neighborhood and the job-generating uses envisioned on the Shipyard. Finally, at its December 10, 2012 meeting, the Oversight Board found that such Amendments may accelerate the flow of tax increment and therefore benefit the affected taxing entities.

Redevelopment efforts are long-term undertakings, with work in blighted areas often extending over decades. The work goes forward through changes in economic and real estate cycles, and is often crucial to providing the catalyst for new development and economic growth in otherwise
difficult markets. The Successor Agency’s ability to respond to these changes in fulfilling its statutory duty to carry out the obligations in the DDAs is particularly critical to ensure the success of the Projects. The success of the Projects will benefit the taxing entities through an increased and diversified tax base that will produce tax revenues for the taxing entities once the Projects are completed.

Therefore, staff recommends the Commission authorize the Successor Agency to enter into the Sixth Amendment to the Phase 1 DDA and the First Amendment to the Phase 2 DDA in substantially the forms presented to the Commission and to execute all documents, amendments, agreements and instruments reasonably necessary or convenient to implement the Sixth Amendment to the Phase 1 DDA and the First Amendment to the Phase 2 DDA.

(Originated by Thor Kaslofsky and Wells Lawson, Project Managers)

Tiffany Bokree
Executive Director

Exhibit A: Sixth Amendment to the Hunters Point Shipyards Phase 1 Disposition and Development Agreement

Exhibit B: First Amendment to the Candlestick Point and Phase 2 of the Hunters Point Shipyards Disposition and Development Agreement

Exhibit C: Independent Consultant’s Analysis Regarding the Proposed Hunters Point Shipyards DDA Amendments, December 6, 2012

Exhibit D: Executive Summary of the Hunters Point Shipyards/Candlestick Point Enforceable Obligations