INFORMATIONAL MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Tiffany Bohee
Executive Director

SUBJECT: Workshop on the Hunters Point Shipyard/Candlestick development, including their enforceable obligations under State law; Hunters Point Shipyard and Bayview Hunters Point Redevelopment Project Areas

EXECUTIVE SUMMARY

In December 2012, the State’s Department of Finance issued a final and conclusive determination upholding agreements underlying the Hunters Point Shipyard/Candlestick Point project (all together the “Project,” or sometimes specifically the “Shipyard” or “Candlestick Point”) as enforceable obligations. The Community Investment and Infrastructure Commission is responsible for implementing these enforceable obligations as the successor to the San Francisco Redevelopment Commission. In assuming this work, Agency staff have prepared this memorandum to provide an overview of the work that is anticipated to occur over the next year including items that will be brought to this Commission for consideration.

Despite changes to redevelopment law over the past year, the work to implement the development agreements for the Project has continued in compliance with State dissolution law. Significant achievements in this time include abatement of lead and asbestos in Building 813, commissioning of public art, and amendments of both phases of the Project’s disposition and development agreements (“Phase 1 DDA” and Phase 2 DDA”, respectively, and together “DDAs”) to facilitate financing of the project. At the same time, staff have been laying the groundwork for significant achievements in 2013.

Several major milestones will be achieved during 2013, including the construction of the first new homes on the Shipyard, conveyance of Navy land to the Successor Agency (“Agency”, commonly known as the Office of Community Investment and Infrastructure), schematic designs for new development blocks, stabilization of Building 813 and the first steps toward commencement of infrastructure construction for revitalization of the Alice Griffith public housing site.

BACKGROUND

The development project will occur in two phases, Phase 1 and Phase 2 (together the “Projects”), each governed by a DDA between the Agency and separate but related developers led by Lennar
Urban (collectively, "Lennar" or the "Developer") as the master developer. The developer for Phase 1 is HPS Development Co., LP and for Phase 2, CP Development Co., LP. The Project DDA’s reflect a “horizontal” land development model, wherein the Agency assembles public land for the redevelopment of the Project area and this land is the asset that is being improved and sold to third parties who will undertake the “vertical” development. The DDAs are designed to transform the Project site into finished parcels that are improved with streets, sidewalks, parks, and other public infrastructure and certain community facilities. In this structure, the role of the Developer is to build the horizontal infrastructure improvements, together with the provision of various community amenities and other public benefits. In return, the Developer receives the right to sell land for vertical development. For vertical construction, the DDA contemplates that the Developer may choose to build vertical projects itself or with affiliates, or alternatively to convey finished lots to other developers for construction.

On December 14, 2012 the State’s Department of Finance made a Final and Conclusive determination that the DDAs are enforceable obligations of the Successor Agency (see Exhibit A). In order to fulfill these obligations, the Commission must implement (and amend as needed) the land use controls and other obligations established in the Redevelopment Plan as well the DDAs and related agreements. Key obligations of these DDAs include:

- The Below Market-Rate Housing Plans, which describe the process and requirements for development of inclusionary, workforce, Alice Griffith replacement and standalone Agency-owned affordable housing parcels.
- The Community Benefits Plans, which obligates the Developer to provide community benefits collectively designed to improve the quality of life for existing and future residents of the Bayview Hunters Point community.
- Agency Employment and Contracting Policies, which require the Developer and subsequent vertical developers to comply with minority/women-owned business (“MBE/WBE”) contracting goals for the Phase 1 DDA and the Bayview Hunters Point Employment and Contracting Policy for the Phase 2 DDA.
- The Infrastructure Plans, which establish the design and construction standards, performance criteria and specifications regarding the Developer’s responsibility for public infrastructure within the Project, including site grading, street layouts and improvements, wet utilities (separated sanitary sewer, separated storm drainage, auxiliary water supply system, low pressure water system and recycled water systems), dry utility layouts, sea level rise improvements, location and improvements for parks and open space, and storm drainage.
- Transportation Plan, which establishes the phased implementation of transit, roadway, pedestrian and bike improvements that will be constructed through the build-out of the Project.
- The Parks and Open Space Plan, which specifies neighborhood parks within Candlestick Point and the Shipyard, new waterfront parks around the entire perimeter of the Shipyard, a major renovation of the Candlestick Point State Recreation Area with restored habitat areas and restored public access to the water.
The Financing Plans establish the agreement between the Developer and the Agency for financing the horizontal development, including creation of Mello-Roos Community Facility Districts (for Phases 1 and 2), and, for Phase 2, the use of tax increment generated by the Project Areas to finance public improvements and other costs permitted by law.

The Design Review and Document Approval Procedure ("DRDAP"), under which the Agency, working with the Planning Department and other City departments, will review and approve all development within the Project Area.

Execution of Vertical DDAs. Under the Phase 1 DDA, the Agency, the Developer and any vertical developer must execute a Vertical DDA upon the close of escrow for any lot conveyed for Vertical Development. The Vertical DDA comprises the terms and conditions that will apply to Vertical Improvements and it incorporates by reference certain Attachments to Phase 1 DDA which will apply to both Infrastructure and to Vertical Improvements.

To implement these obligations the Commission must take a number of actions to ensure that the Agency is able to continue its work under these agreements. These include receiving and administering grants, executing leases, accepting property, approving and amending consulting and construction contracts, and disposing of property, among others. The work and major milestones that are anticipated to be completed in furtherance of these obligations in 2013 are summarized below.

Workforce and Contracting Requirements

Under the Hunters Point Shipyard Phase 1 DDA, the Developer is obligated to comply with the Agency’s Minority and Women-owned Business Enterprises (M/WBE) Policy. The goals for MBEs and WBEs for professional services consultants are 20% and 18% respectively and the construction subcontracting goals are 31% for MBEs and 10% for WBEs. To date, Lennar has achieved over 25% MBE and 14% WBE participation for professional services consultants and has achieved 46% MBE and 1% WBE subcontracting participation on the infrastructure construction projects.

The Phase 2 DDA requires the Developer to make good faith efforts to achieve 50% local participation for Construction, Professional Services and Suppliers, with first consideration for BVHP area businesses and residents. This policy is based on the Agency’s SBE Policy and the Bayview Hunters Point Employment and Contracting Policy, and has further provisions that encourage contracts to be broken down into smaller amounts, employ Bayview Hunters Point residents in a trainee program for professional services contracts, prioritize SBEs in public solicitations, assure prompt payment and require regular reporting.

For permanent workforce jobs, the Project will comply with the City’s “First Source Hiring Program” under which the City will have the opportunity to train economically disadvantaged individuals for positions in the Shipyard and Candlestick Point, and project area employers will give first priority to hiring individuals referred from the City’s workforce programs. The Project
will use the City’s Citybuild Sector Academies and CBOs to maximize access to professional development opportunities. In addition, the Project must comply with the Agency’s non-discrimination and equal benefits, minimum compensation, health care accountability and prevailing wage policies. The Alice Griffith Replacement Projects will, in addition, be subject to the Housing Authority’s equal opportunity and hiring requirements.

DISCUSSION

Over the next year, Agency staff and the Developer will complete advanced streetscape and infrastructure design for infrastructure on Candlestick Point and the remainder of the Shipyards; schematic designs for vertical development on the hilltop of Phase I; the transfer of lands to the Agency for the installation of new infrastructure; and, work under federal grants to support economic development. Specific milestones are provided below, some of which may require Commission review and action at later date, whereupon a more in-depth discussion and presentation will be provided.

Leases and Property Management

The Shipyards is divided into 12 large parcels in order to facilitate the phased development of the site as Shipyards lands are remediated and conveyed to the Agency for reuse (See Exhibit B). There are a number of active tenants on the Shipyards including the San Francisco Police Department (“SFPD”) and approximately 150 artists in five buildings located on Parcel B of the site. In order to facilitate the transition of ownership through the buildout of the Project, the Agency agreed to leases these properties from the Navy and in turn lease a) directly to the SFPD and b) to the artists via a sublease with Lennar. Under the Phase 1 DDA, Lennar has agreed to assume caretaker responsibilities for certain Shipyards properties, including those on Parcel B, under an “interim lease” with the Agency. Staff anticipates bringing the master leases with the Navy to the Commission for renewal early in 2013.

Staff will also propose to the Commission a tenanting plan for the newly constructed building at the corner of Galvez Avenue and Coleman Street. The new building may be used to provide temporary studios for Shipyards artists while a new building is constructed nearby. Ultimately, the building is envisioned to house community-serving uses with a focus on the Shipyards’s sustainability program such as demonstration of clean technology, green jobs training, community outreach, etc.

The Agency would also amend its Interim Lease with the Developer to allow the Developer to build and operate a real estate sales and marketing office on Agency-owned land (Block 56) on the Hilltop site.

Further the Agency will enter into a new contract with a consultant for the Shipyards Site Office which assists the Agency with property management services, such as the security badging program for the Shipyards. The Site Office also provides administrative support services to the Agency and the Hunters Point Shipyards Citizen’s Advisory Committee (“CAC”) and works with
the Agency and the CAC to disseminate information and updates pertaining to the Shipyards development. These costs are fully reimbursed by the Developer as a qualified project costs under the DDA.

Major Phases and Design Review

The DDAs each require the Developer to submit more detailed designs for the development of the Project according to the project phases, known as “Major Phase Applications.” The Developer is expected to submit Major Phase Applications for blocks on the Hilltop portion of the Project site, including market rate housing on Blocks 56 and 57, and affordable housing on Block 49. Agency Staff will review these plans for completeness and consistency, solicit feedback from the Hunters Point Shipyards Citizen’s Advisory Committee (“CAC”), and ultimately bring the plans forward for the Commission’s consideration.

The Developer is also required to submit a Major Phase Application for the Parcel B, Alice Griffith and the Candlestick Point portion of the site. This application will include the conceptual design for infrastructure and lots containing approximately 3,000 new homes, neighborhood retail, and new artists’ studios and facilities, along with an artists’ relocation plan. In parallel, Agency staff will bring forward a Streetscape Master Plan for Commission review and approval. The Streetscape Master Plan builds on the Infrastructure and Transportation Plans approved in 2010 as part of the Phase 2 DDA and incorporates more detailed design for furniture, fixtures, plant selection, stormwater management, bus rapid transit signalization and intersection design for the site.

Below Market-Rate Housing Program

Below market-rate housing in Phase 1 and Phase 2 is provided through several methods: (1) stand-alone affordable housing developments serving households earning up to 60% of Area Median Income (AMI) (2) stand-alone “workforce” housing developments serving households earning between 120% and 160% of AMI, and (3) the development of inclusionary units, i.e. below market-rate units that are included within market rate developments and serve income levels similar to those in the stand-alone affordable housing projects. See Exhibit D Hunters Point Shipyards/Candlestick Point Housing Affordability Ladder for further information on the unit totals for each of these methods of below market rate housing.

The Agency will be most directly involved in stand-alone affordable housing projects by overseeing, in consultation with the Mayor’s Office of Housing (“MOH”), the development of designated parcels into projects that will serve a variety of housing types (families, seniors, supportive, homeownership) and by providing tax increment financing to the projects. This process will include overseeing the solicitation of developers, schematic design, financing, construction, and marketing of the units to qualified households. The housing type for future affordable housing projects will be determined in consultation with the Commission, MOH, existing City policies, including the City’s 10-year Plan to End Chronic Homelessness and the San Francisco Housing Element, and the community.

Public Art Program
The Agency has allocated approximately $1 million in federal grant funds for public art. Following a robust outreach process, which considered more than 300 submissions, nine pieces were commissioned for installation in the Parcel A area of the Shipyard (see Exhibit C). This program marks the first phase of robust public art program envisioned for the Shipyard. As artists complete their work and the site is prepared to receive the art, the Agency will solicit proposals for contractors to facilitate installation on the site. These costs will be paid for using grant funds from the United States Department of Commerce, Economic Development Administration ("EDA") with a ten percent match to come from project area tax increment as allowed under State dissolution law.

Building 813

Building 813 is an existing four-story, 275,000 square foot building on the Shipyard site that has been retained for use as a business incubator for early-stage innovation company in the fields of clean technology, life sciences and information technology. Over the past year, the Successor Agency completed lead and asbestos abatement in the building using state grant funds for brownfield cleanup. In order to ensure its viability for reuse, basic stabilization and life-safety improvements are needed for the building, including a new roof, paint, window repair, and basic safety and security measures. Agency staff will seek the Commission’s authorization to award a construction contract to complete these improvements using EDA grant funds with a ten percent of tax increment. Once the improvements are complete, development proposals for the site as an incubator may be solicited.

Land Transactions

Various portions of the Shipyard and Candlestick sites are under the ownership of the Navy, the State Lands Commission, California State Parks, the City and the San Francisco Housing Authority. Underlying agreements with these entities provide for the transfer of these lands to the Agency to support redevelopment of the site. As plans to initiate construction on the next phase of infrastructure fall into place, the next series of transactions are needed to effectuate these transfers as contemplated under the Phase 2 DDA.

Navy Conveyance: The next parcel of Navy land to transfer since Parcel A was transferred in 2005 will be Parcel D-2, which will jump-start the Research & Development/Office component of the Project and contains Building 813. Following the D-2 transfer, the Navy anticipates transferring Parcels UC-1 and UC-2, required for the Project’s utility corridors, later in 2013.

Alice Griffith DDA: In 2011, the Alice Griffith public housing site was one of four selected nationwide for a $30.5 million grant from the U.S. Department of Housing and Urban Development ("HUD") through its Choice Neighborhoods Initiative. Lennar has selected McCormack Baron Salazar ("MBS") to act as the developer for the Alice Griffith site. MBS has extensive experience in affordable housing project throughout the United States and has partnered with Urban Strategies, a non-profit organization that is providing resident-based consensus-building, training, and job linkages for Alice Griffith residents to ensure that residents are engaged in both the physical and social aspects of the revitalization.
In order to complete the rebuild of Alice Griffith site, the Developer and the Agency must obtain HUD’s consent to convey portions of the Alice Griffith Site to either the Agency for dedicated affordable housing sites, or to the Developer for market rate housing. This consent is anticipated to take the form of a DDA between HUD, the Housing Authority, the Agency, and the Developer.

*State Parks and State Lands:* In order to prepare for the Candlestick development, certain portions of the Candlestick site that are currently owned by State Parks or the State Lands Commission must be transferred to the Agency. In 2009, the Legislature, through Senate Bill 792, created the framework for the transfer of approximately 20 net acres of land, which consists of parking lot areas and areas covered in rubble or sparse vegetation, to the Successor Agency in exchange for park funding, as well as lands in other areas of the Candlestick Point State Recreation Area. The first portion of these lands is required for the Alice Griffith public housing site and surrounding infrastructure.

**2013 PROJECT GOALS**

- Commence vertical construction of the first phase of residential development on Blocks 50/51.
- Begin construction on the Hilltop Park and adjacent pocket parks.
- Approve a Major Phase for Block 49 which will include a design and Vertical DDA for affordable housing.
- Install public art pieces.
- Begin construction of a 2,800 square foot Welcome Center for Lennar.
- Continue and finalize negotiations with the Navy for the transfer of Parcels D-2, UC-1 and UC-2 on the Shipyard.
- Approve a Phase 2 Streetscape Master Plan.
- Solicit development proposals for the reuse Building 813.
- Submit final application for a Transportation Infrastructure Finance and Innovation Act Loan (“TIFIA”).
- Complete and approve a Relocation Plan for the Shipyard tenants and artists.
- Complete tenant improvements and open the modular community facilities building.
- Complete street vacations on the Shipyard and Candlestick Point.
- Review and approve Major Phase submittal for the first Major Phase of construction of the Phase 2 DDA.
- Complete State Lands Trust Lands exchange and Initial Closing for California State Parks properties.
- Approve an Alice Griffith DDA.
NEXT STEPS

Many of the items described above will be brought to the Commission for review and approval, at which point more detailed memoranda and staff presentations will be provided. In addition, a number of administrative actions to amend or approve smaller consulting contracts needed to implement the Agency's obligations under the Project's DDAs will be brought forward for the Commissions consideration. Staff will ensure the CAC's involvement and consultation throughout this process.

Prepared by Thor Kaslofsky and Wells Lawson, Project Managers

Tiffany Bohoe
Executive Director

Exhibit A: Request and Approval from State of California Department of Finance: Final and Conclusive Determination for Hunters Point Shipyards/Candlestick Point
Exhibit B: Map of the Hunters Point Shipyards Navy-owned Parcels
Exhibit C: HPS Public Art selections and approximate locations
Exhibit D: Hunters Point Shipyards/Candlestick Point Housing Affordability Ladder
Exhibit E: Hunters Point Shipyards/Candlestick Point Land Plan
EXHIBIT A: Request and Approval from State of California Department of Finance: Final and Conclusive Determination for Hunters Point Shipyard/Candlestick Point
FINAL AND CONCLUSIVE DETERMINATION REQUEST FORM

Instructions: Please fill out this form in its entirety to request Finance to provide a final and conclusive determination on an approved enforceable obligation. Additional supporting documents may be included with the submittal of this form as justification related to the enforceable obligation, including documents that may have been previously submitted. Upon completion, email a PDF version of this document (including any attachments) to:

Redevelopment_Administration@dof.ca.gov

The subject line should state "[Agency Name] Final and Conclusive Determination Request". Finance will contact the requesting agency upon receipt for any additional information that may be necessary. Questions related to the final and conclusive determination process should be directed to (916) 445-1546 or by email to Redevelopment_Administration@dof.ca.gov.

Health and Safety Code (HSC) section 34177.5 (i), allows a Successor Agency to request the Department of Finance (Finance) to provide written confirmation that its determination of such enforceable obligation as approved in a Recognized Obligation Payment Schedule (ROPS) is final and conclusive, and reflects Finance’s approval of subsequent payments made pursuant to the enforceable obligation.

GENERAL INFORMATION:

Agency Name: Successor Agency to the Redevelopment Agency of the City and County of San Francisco

ROPS Period: January 1, 2013 through June 30, 2013 (ROPS III)

Date of Finance’s Determination/Approval Letter: October 12, 2012

DETAIL OF REQUEST

Summary of Enforceable Obligation:

- ROPS Line Number: 67, 123, 173, and 174 (each, an “Enforceable Obligation”)

- Project Name: The Hunters Point Shipyard/ Candlestick Point Project

Contract/Agreement Execution and Termination Date:

1. Disposition and Development Agreement Hunters Point Shipyard Phase 1, executed December 18, 2003 (but dated as of December 2, 2003) (the "Original DDA"), by and between the Redevelopment Agency of the City and County of San Francisco and Lennar-BVHP, LLC, as amended by that certain First Amendment to Disposition and Development Agreement Hunters Point Shipyard Phase 1, dated as of April 4, 2005 (the "First Amendment"), and as further amended by that certain Second Amendment to Disposition and Development Agreement Hunters Point Shipyard Phase 1, dated as of October 17, 2006 (the "Second Amendment"), and as further amended by that certain Amendment to Attachment 10 (Schedule Of Performance For Infrastructure Development And Open Space "Build Out" Schedule Of Performance) to the Disposition And Development Agreement Hunters Point Shipyard Phase 1, dated as of August 5, 2008 (the "Third Amendment"), and as further amended by that certain Fourth Amendment to Disposition and Development Agreement (Hunters Point...
Shipyard Phase 1), dated as of August 29, 2008 (the "Fourth Amendment"), and as further amended by that certain Fifth Amendment to Disposition and Development Agreement (Hunters Point Shipyard Phase 1), dated as of November 3, 2009 (the "Fifth Amendment," and together with the Original DDA, the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment, "DDA1"), available at http://www.sfredevelopment.org/index.aspx?page=160. Section 2 of DDA1 defines the termination date as the date of the sale of final lot.

2. Disposition and Development Agreement, executed October 29, 2010, by and between the Redevelopment Agency of the City and County of San Francisco and CP Development Co., LP. ("DDA2"), available at http://www.sfredevelopment.org/index.aspx?page=186. Section 2 of DDA2 defines the termination date as the expiration of the applicable redevelopment plan or completion of the project, but property tax revenues are committed through the year 2058.

3. Tax Increment Allocation Pledge Agreement, dated June 3, 2010, by and between the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco, and CP Development Co., LP as an intended third-party beneficiary ("Pledge Agreement"), available as Attachment H-1 at http://www.sfredevelopment.org/Modules/ShowDocument.aspx?documentid=2576. Section 6 defines the termination date, for the BVHP tax increment, as 45 years from the adoption date of the BVHP Redevelopment Plan (i.e., 2051) and, for the HPSY tax increment, as 45 years from the date on which $100,000 in tax increment is received in the Hunters Point Shipyard project area (i.e., estimated to be 2058).

Payee: CP Development Co., LP, and other parties.

Funding Source: Redevelopment Property Tax Trust Fund

Total Outstanding Debt or Obligation:

1. DDA1: $65,400,000 (ROPS Line 173).

2. DDA2 and Pledge Agreement: $3,950,193,196 (ROPS Line 67), $62,017,200 (ROPS Line 123), and $1,074,632,984 (ROPS Line 174).

Total Due During Fiscal Year: $0

Six Month Total: $0

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1 This is the estimated cost of funding approximately 218 affordable housing units; actual amounts will vary with the actual cost of housing and timing of issuance of bonds. This number is included in the amount of outstanding obligation under ROPS Line 174, which represents the total obligation for affordable housing under DDA1 and DDA2.

2 These amounts listed for the DDA2 and Pledge Agreement are estimates; actual amounts will vary with the actual cost of infrastructure/housing and timing of issuance of bonds.
SUMMARY OF REQUEST

- Background/History (Provide relevant background/history, if applicable)

The Hunters Point Shipyard/Candlestick Point Project is divided into two related parts, called Phase 1 and Phase 2, each with a separate disposition and development agreement (previously defined as DDA1 and DDA2, respectively) with a private master developer (the two master developers are separate but affiliated entities). The Successor Agency has assumed all obligations under DDA1 and DDA2 from the Redevelopment Agency of the City and County of San Francisco ("Agency"). The DDAs, together with a number of related binding agreements attached to or referenced in the text of the DDA, establish a comprehensive set of enforceable obligations that collectively govern the completion of this Project. The agreements contemplate that the master developer will develop the Project over time, and the Agency has committed tax increment to, and has enforceable obligations with respect to, the Project throughout the development thereof. The DDAs remain in effect through the earlier of Project completion or the end of the applicable redevelopment plans, although the receipt of pledged tax increment will go beyond such dates.

The first project ("Phase 1") covers approximately 75 acres at the Hunters Point Shipyard ("Shipyard") and is governed by DDA1 with HPS Development Co., LP\(^3\) as the developer ("Phase 1 Developer"). The second project ("Phase 2") is significantly larger, covering over 700 acres at the Shipyard and at adjacent Candlestick Point. Phase 2 is governed by DDA2 with CP Development Co., LP as the developer ("Phase 2 Developer"); all references to the "Developer" shall mean the Phase 1 Developer or the Phase 2 Developer, as applicable. While planning for the Phase 1 and Phase 2 projects are closely intertwined, development of Phase 1 is not legally dependent on development of Phase 2, nor does development of Phase 2 legally depend on development of Phase 1.

The Shipyard is a former military base that closed in 1974. Candlestick Point is the site of the existing San Francisco 49ers stadium (which is near the end of its useful life), parking lots used only on game days, and the Alice Griffith public housing project, which is in desperate need of replacement. Phase 1 and Phase 2 include all of the real property that is covered by the Hunters Point Shipyard Redevelopment Plan that the City's Board of Supervisors adopted in July 1997, as amended (the "Shipyard Redevelopment Plan"), available at http://www.sfredevelopment.org/index.aspx?page=160. Candlestick Point is located within a separate redevelopment plan area, the Bayview Hunters Point Redevelopment Plan, which the City's Board of Supervisors adopted in May 2006, as amended, available at http://www.sfredevelopment.org/modules/showdocument.aspx?documentid=3331 (the "BVHP Plan," together with the Shipyard Redevelopment Plan, the "Project Redevelopment Plans").

DDA2 includes an attached financing plan (the "Financing Plan"), available as Exhibit H under Part 6 at http://www.sfredevelopment.org/index.aspx?page=186, and describes how the Project will be financed, including the pledge of the tax increment from the Bayview Hunters Point and Hunters Point Shipyard project areas and the Agency's obligation to issue tax allocation debt. Concurrently with and as contemplated by DDA2, the City, the Agency, and the Developer (as an express intended third party beneficiary with enforcement rights) entered into a tax allocation pledge agreement (the "Pledge Agreement"), attached to DDA2, available as Attachment H-1 at http://www.sfredevelopment.org/Modules/ShowDocument.aspx?documentid=2576, which establishes the irrevocable pledge of tax increment for infrastructure and other qualified project costs, including affordable housing.

The Developer is a party to the Financing Plan under DDA2, and is a signatory to and an express third party beneficiary of the Pledge Agreement. Section 1 of the Pledge Agreement at page 5 provides that "Developer is entitled to rely on this Agreement, receive the benefits of this Agreement for the Project and enforce any provision of this Agreement against any Party." The Developer also signed a separate consent form, attached to the Pledge Agreement, stating that the Developer "consents to the Agreement, may enforce this Agreement, and specifically agrees to be bound by all limitations on remedies under the Agreement applicable to Developer." Developer's Consent and Agreement.

The Project covered by DDA1 includes approximately 1,600 residential units (at least 32% of which will be affordable to low- and moderate-income residents), commercial space, community development facilities, and active and passive open space. In order to achieve the development plan for Phase 1, significant public infrastructure improvements need to be made. The Infrastructure Plan attached as Attachment 9 to the DDA1

\(^3\) HPS Development Co., LP was designated in the Fourth Amendment to the DDA1 as the successor to the original master developer, Lennar-BVHP, LLC.
outlines the infrastructure improvements in detail, including demolishing existing structures, grading, constructing a new roadway network and pedestrian improvements, constructing new utility systems and creating public open space. A critical component of DDA1 is the obligation of the Agency to build approximately 218 units of affordable housing, as described in the Affordable Housing Program to DDA1, available as Exhibit D to Second Amendment at http://www.sfredevelopment.org/ftp/uploadedfiles/Projects/HPS-Phase1-DDA-2ndAmendment.pdf.

The project covered by DDA2 includes up to 10,500 residential units, approximately 336 acres of parks and open spaces, and significant retail, commercial, industrial and office space. DDA2 provides for the completion of all infrastructure and finished lots ready for vertical development, over approximately 20 years, with vertical development occurring during that period and beyond. The Developer will build significant public infrastructure and complete developable lots, and it will recover its private investment through, among other sources, the Net Available Increment (as defined in the Financing Plan to DDA2) generated in the project site.

The Financing Plan, requires that twenty percent of the tax increment generated within the project site be used for the development of 1,644 affordable housing units on the affordable housing lots ("Housing Increment"). Under Section 1.1(b)(v) of the Financing Plan at p. H-2, the Agency agreed to “take all actions reasonably necessary” to provide Housing Increment for the development of the affordable housing units.

A critical component of DDA2 is the reconstruction of an existing public housing facility known as the Alice Griffith Housing Development ("Alice Griffith"), currently owned and operated by the San Francisco Housing Authority. As described in DDA2 and the housing plan attached to DDA2 (“Housing Plan”), available as Exhibit F under Part 4 at http://www.sfredevelopment.org/Modules/ShowDocument.aspx?documentid=2534, the Alice Griffith Developer, a joint venture between the Developer and an affordable housing developer, is obligated to replace all of the existing 256 residential units in Alice Griffith, which is greatly in need of replacement, and complete an additional 248 affordable units. The Agency is required to subsidize a portion of these Alice Griffith units, which are included in the above-referenced 1,644 affordable housing units.

A copy of each of DDA1 and DDA2 (with its Financing Plan, Housing Plan and the Pledge Agreement attached as exhibits) appears at http://www.sfredevelopment.org/ftp/uploadedfiles/Projects/HPS-Phase1-Original-DDA-All.pdf and http://www.sfredevelopment.org/index.aspx?page=186, respectively. The Successor Agency has previously described all of these agreements and obligations in documentation submitted as part of ROPS I that the Oversight Board of the City and the DOF approved earlier this year. Exhibit B-3 to Oversight Board Resolution No. 5-2012 (April 10, 2012) at http://sfssa.org/index.aspx?page=5254.

• Justification for Request (Provide additional attachments to this form, as necessary)

In the DOF Guidance for a Final and Conclusive Determination, available at http://www.dof.ca.gov/redevelopment/final_and_conclusive/view.php, DOF states that it will issue a formal letter confirming the final and conclusive determination of an enforceable condition if three conditions are met: an irrevocable commitment of property tax revenue; an allocation of this revenue over time; and the previous listing of the enforceable obligation on an approved ROPS. The Enforceable Obligations that are the subject of this Request for a Final and Conclusive Determination ("Request") meet these conditions. First, DDA1 requires the Agency to construct and irrevocably fund with property tax revenues an affordable housing program of 218 units in Phase 1; DDA2 requires the Agency to construct and irrevocably fund with property tax revenue a program of infrastructure and open space improvements and approximately 1,644 units of affordable housing and Alice Griffith; and the Pledge Agreement irrevocably commits tax increment from Phase 2 area for the program of infrastructure, open space and affordable housing. Second, the allocation of property tax revenues occurs over time as the revenues are generated during the terms of DDA1, DDA2, and the Pledge Agreement. Third, DOF has approved ROPS I, II and III, each of which listed these Enforceable Obligations.

1. Irrevocable Commitment of Property Tax Revenue in Enforceable Obligations.

DDA1 (and its exhibits) and DDA2 (with its Financing Plan, Housing Plan, the Pledge Agreement, and other exhibits) were all executed prior to January 2011, and are all "legally binding and enforceable agreement[s] that

4 The DOF is currently reviewing some outstanding items on ROPS III but has not objected to the Enforceable Obligations described in this Request.

Page 4 of 7
[are] not otherwise void as violating the debt limit or public policy“ pursuant to California Health and Safety Code Section 34171(d)(1)(E).

A. DDA1.

Under DDA1, the Agency irrevocably committed to use property tax increment to develop the Agency Housing Parcels for affordable housing. This obligation, set forth in Section 11 of DDA1, as amended in the Second Amendment at pp. 5-6, available at http://www.sfredevelopment.org/ftp/uploadedfiles/Projects/HPS-Phase1-DDA-2ndAmendment.pdf, requires that, once sufficient property tax increment becomes available to fund construction, the Agency must start construction on the Agency affordable housing units. Specifically, Section 11 states that:

...the Agency shall first Commence Construction of its fifty (50) Agency Affordable Housing Units on Block 54. Thereafter...as Shipyard Tax Increment funding becomes available, the Agency shall, in an effort to ensure continuity of Lot development during the vertical construction phase, endeavor to develop its Agency Housing Parcels on a schedule that considers issues of adjacency and therefore complements Developer’s, and any Affiliate of Developer’s or any Community Developer’s, schedule for construction on its various lots.

The Agency’s development of affordable housing is part of the bargain between the parties and not merely an optional undertaking by the Agency. Under DDA1, the Agency has the obligation, not merely the right, to construct affordable housing. Moreover, the Agency is required to construct such housing in a specific order according to certain standards. Not only must the Agency construct the first block of affordable housing on a specific parcel, but the Agency’s subsequent housing development is required to take into account adjacencies so as to “complement” Developer’s market rate development. The Agency’s issuance of tax allocation debt to fund the construction of these affordable units is the only feasible financing method by which the Agency will be able to meet the performance requirements under the DDA1.

B. DDA2.

Under DDA2, the Agency irrevocably committed to use property tax increment to finance qualified project costs. The Financing Plan describes how the infrastructure project is to be financed, through the use of the continuing pledge and allocation of Net Available Increment and the issuance of tax allocation debt. The property tax increment financing includes Agency obligations to issue debt, secured by that Net Available Increment. The Financing Plan defines the Agency’s obligation to provide property tax increment to finance qualified project costs as an “indebtedness” of the Agency under section 33670(b) of the California Community Redevelopment Law (“CCRL”). The Agency must issue tax allocation debt, secured by property tax increment, to pay for infrastructure and other permitted costs, as set forth in Section 3.1(c), and for affordable housing, as set forth in Section 3.4, of the Financing Plan.

C. Pledge Agreement.

Under the Pledge Agreement, the City and the Agency irrevocably pledged all Net Available Increment from the project site to finance the construction of infrastructure and other qualified project costs. Under Section 2 of the Pledge Agreement, tax increment from the project site or the proceeds of bonds secured by a pledge of tax increment must be used to make payments on indebtedness of the Agency or to otherwise directly reimburse the Agency and the Developer for qualified project costs (emphasis added):

The City recognizes and approves the incurrence of indebtedness by the Agency under the Financing Plan for the purpose of financing or refinancing, in whole or in part, the Qualified Project Costs in accordance with the terms and conditions of the Financing Plan. The City agrees that all Net Available Increment and any interest earnings thereon shall be irrevocably pledged by the Agency, as a first pledge where applicable, for the payment of the Project Indebtedness of the Agency. . . . . The City and the Agency hereby determine and agree that Net Available Increment is being pledged to the payment of Project Indebtedness that has been incurred for “redevelopment activity” pursuant to section 33678 of the CCRL.

So long as the Project has the right to receive Net Available Increment, all of it will be used on a “pay as you go” basis or to pay debt service on debt.
Set forth below is a description of the corresponding line item for each Enforceable Obligation in each previous ROPS II and ROPS I submission:

- The Enforceable Obligation shown on Line 67 of ROPS III was previously described on Line HPSY-3 (non-housing) in ROPS II and on Line HPSY-38 (non-housing) in ROPS I.
- The Enforceable Obligation shown on Line 123 of ROPS III was previously described on Line BVHP-3 (housing) in ROPS II and on Line BVHP-3 (housing) in ROPS I.
- The Enforceable Obligation shown on Line 173 of ROPS III was previously described on Line HPSY-1 (housing) in ROPS II and on Line HPSY-1 (housing) in ROPS I.
- The Enforceable Obligation shown on Line 174 of ROPS III was previously described on Line BVHP-1 (housing) in ROPS II and on Line BVHP-1 (housing) in ROPS I.

In addition, in connection with the submission of ROPS I, representatives of the Successor Agency and the Developer met with the DOF on April 18, 2012 and discussed, in detail, the nature of Phase 1 and Phase 2, the terms of the DDAs and related documents, and the legal obligation of the Successor Agency to comply with the DDAs and related documents. Through these meetings, as well as follow-up calls and emails, the DOF conducted a thorough review of each Enforceable Obligation. Furthermore, the Successor Agency has submitted DDA2 to DOF in response to its specific requests during the ROPS I review. E-mail, Randy McClendon to Jim Morales (April 11, 2012) (attached), and during the ROPS III review, E-mail, Brown Moua to Tiffany Bohee (Sep. 14, 2012) (attached). The Successor Agency has also submitted DDA1 to DOF during the ROPS III review. E-mail, Brown Moua to Tiffany Bohee (Sep. 14, 2012) (attached). As noted above, the DOE letters approving the Successor Agency’s ROPS have not objected to the Enforceable Obligations that are the subject of this Request.

- Conclusion

Based on the foregoing, the Successor Agency requests that, pursuant to California Health and Safety Code Section 34177.5(i), DOF determine that each Enforceable Obligation is final and conclusive, requires the issuance of tax allocation debt, and is not subject to further review or challenge by DOF, provided however that all subsequent payments made pursuant to, or in compliance with, each such Enforceable Obligation, including, but not limited to, payments made on new enforceable obligations on a future ROPS that are in compliance with each such Enforceable Obligation, shall be approved by DOF.

### Agency Contact Information

<table>
<thead>
<tr>
<th>Name</th>
<th>Name</th>
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<tbody>
<tr>
<td>Tiffany Bohee</td>
<td>Sally Oerth</td>
</tr>
<tr>
<td>Title</td>
<td>Title</td>
</tr>
<tr>
<td>Executive Director</td>
<td>Deputy Director</td>
</tr>
<tr>
<td>Phone</td>
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</tr>
<tr>
<td>415-749-2588</td>
<td>415-749-2580</td>
</tr>
<tr>
<td>Email</td>
<td>Email</td>
</tr>
<tr>
<td><a href="mailto:tiffany.bohee@sfgov.org">tiffany.bohee@sfgov.org</a></td>
<td><a href="mailto:sally.oerth@sfgov.org">sally.oerth@sfgov.org</a></td>
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### Department of Finance Local Government Unit Use Only

DETERMINATION OF FINAL AND CONCLUSIVE STATUS: ☐ APPROVED ☐ DENIED

APPROVED/DENIED BY: ___________________________ DATE: ______________

APPROVAL OR DENIAL LETTER PROVIDED: ☐ YES DATE AGENCY NOTIFIED: ___________________________
In addition, under the Pledge Agreement, the City and the Agency irrevocably pledged the Housing Increment to finance affordable housing costs. Sections 3.1(c) and 3.2(c) of the Pledge Agreement at pp. 5-6 provide as follows (emphasis added):

The City authorizes and approves the Agency to:... (c) pledge irrevocably all Housing Increment generated in the Shipyard Redevelopment Plan Area, plus any accrued interest earnings, to finance or refinance development permitted under section 33334.2 of the CCRL. (Pledge Agreement section 3.1(c).)

The City authorizes and approves the Agency to:... (c) pledge irrevocably all Housing Increment generated in the BVHP Redevelopment Plan Area, plus any accrued interest earnings, to finance or refinance development permitted under section 33334.2 of the CCRL. (Pledge Agreement section 3.2(c).)

The Agency’s development of affordable housing is part of the bargain between the parties and not merely an optional undertaking by the Agency. Under DDA2, the Agency has the obligation, not merely the right, to finance affordable housing.

2. Property Tax Revenues Payable Over Time

DDA1 provides for the completion of all infrastructure and finished lots ready for vertical development over approximately 20 years, with vertical development occurring during that period and beyond. The Agency committed to build approximately 218 affordable housing units on the affordable housing lots using tax increment. This commitment to build affordable housing arises as and when tax increment becomes available, and tax increment becomes available as development progresses. Moreover, the affordable housing will be located on parts of the existing site and adjacent sites, and integrated into the overall development as part of the larger mixed-income development.

DDA2 provides for the completion of all infrastructure and finished lots ready for vertical development over approximately 20 years, with vertical development occurring during that period and beyond. The Developer will build significant public infrastructure and complete developable lots over 20 years, and it will recover its private investment through, among other sources, the Net Available Increment generated by the Project. Also, the Agency committed to build approximately 1,644 affordable housing units on the affordable housing lots using tax increment. This commitment to build affordable housing arises as and when tax increment becomes available and tax increment becomes available as development progresses. Moreover, these units will be located on parts of the existing site and adjacent sites, and integrated into the overall development as part of the larger mixed-income development.

The Pledge Agreement remains in effect, for the BVHP tax increment, for 45 years from the adoption date of the BVHP Redevelopment Plan (i.e., 2051) and, for the HPSY tax increment, for 45 years from the date on which $100,000 in tax increment is received in the Hunters Point Shipyard project area (i.e., estimated to be 2058). Accordingly, the irrevocable pledge of tax increment does not end until 2058 and the allocation of property tax will occur over time.

3. Enforceable Obligations Previously Approved by DOF

Each Enforceable Obligation was listed on ROPS III, and was approved by the Oversight Board, timely submitted to the DOF by the Successor Agency on August 28, 2012, and approved by the DOF by letter dated October 12, 2012, available at http://sfgsa.org/modules/showdocument.aspx?documentid=9334. Although this request describes each Enforceable Obligation by reference to the line items on ROPS III, each Enforceable Obligation was also included and approved as part of ROPS II and ROPS I.

December 14, 2012

Ms. Tiffany Bohee, Executive Director
City and County of San Francisco Sucessor Agency
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Dear Ms. Bohee:

Subject: Request for Final and Conclusive Determination

On November 7, 2012, the City and County of San Francisco Sucessor Agency (Agency) submitted a petition to the Department of Finance (Finance) requesting written confirmation that its determination of four enforceable obligations as approved in a Recognized Obligation Payment Schedule (ROPS) is final and conclusive. The four obligations subject of the request are all connected to the Hunters' Point Shipyard/Candlestick Point Project and are specifically listed on ROPS III (January 1, 2013 through June 30, 2013) as the following:

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<th>Project Name / Debt Obligation</th>
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<tr>
<td>67</td>
<td>Phase 2 DDA &amp; Tax Increment Allocation Pledge Agreement</td>
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<td>Disposition and Development Agreement - Hunters Point Shipyard Phase 1; affordable housing program funded by LMIHF for HPS Phase 1</td>
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<td>174</td>
<td>Phase 2 DDA &amp; Tax Increment Allocation Pledge Agreement (Housing Portion); affordable housing program funded by Low and Moderate Income Housing Fund (LMIHF) for CP-HPS2</td>
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Finance has completed its review of the Agency's petition, which included obtaining clarification on items provided and additional supporting documentation. Pursuant to Health and Safety Code section 34177.5 (f), we are pleased to inform you that the approval of Items 67, 123, 173 and 174 as listed on the approved ROPS III is final and conclusive. Finance's review of these obligations in a future ROPS shall be limited to confirming that the requested payments are required by the prior enforceable obligation. This final and conclusive determination is only valid for the four items listed above.
Please be advised that there may be activities included in the enforceable obligations described in this letter that are permissive that the Agency may no longer have the statutory authority to carry out. This final and conclusive determination neither grants additional authority to the Agency nor does it authorize acts contrary to law. Additionally, any amendments to the above items are not subject to this final and conclusive determination.

Please direct inquiries to Justyn Howard, Assistant Program Budget Manager at (916) 445-1546.

Sincerely,


STEVE SZALAY
Local Government Consultant

cc: Ms. Sally Oerth, Deputy Director, San Francisco
Mr. James Whitaker, Property Manager, San Francisco
California State Controller’s Office
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**EXHIBIT D: Hunters Point Shipyard/Candlestick Point Housing Affordability Ladder**

- **Market Rate**: 141% - 160%
- **Workers Housing Units**: 121% - 140%
- **Moderate Income Housing Units**: 101% - 120%
- **Income Housing Units**: 80% - 100%
- **Pf 2 Agency Affordable Units**: 0% - 80%
- **Pf 1 Agency Affordable Units**: 0% - 60%
- **Alice Griffith Replacement Units**: 0% - 50%