MEMORANDUM

TO: Oversight Board

FROM: Tiffany Bohee
Executive Director

SUBJECT: Resolution approving, under Section 34180 (b) of the California Health and Safety Code, the issuance of special tax bonds by the Successor Agency to the Redevelopment Agency of the City and County of San Francisco for Community Facilities District No. 6 (Mission Bay South Public Improvements) and related actions, Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

Staff requests the Oversight Board’s approval for the Successor Agency to the Redevelopment Agency of the City and County of San Francisco ("Successor Agency") to issue three series of special tax bonds for Community Facilities District ("CFD") No. 6 - Mission Bay South Public Improvements ("2013 Bonds") and approval of the related documents and actions, as contemplated in the resolution approved on December 18, 2012 by the Successor Agency Commission, commonly referred to as the Commission of Community Investment and Infrastructure. The three series of 2013 Bonds would not exceed an aggregate amount of $160,000,000 and are comprised of: Series 2013A and 2013B, which are current interest bonds, and the Series 2013C Bonds, which are capital appreciation bonds. Approval of the 2013 Bonds complies with the Successor Agency’s enforceable obligations and with Redevelopment Dissolution Law.

The net proceeds of the Series 2013A bonds will be used to refund outstanding 2001 and 2002 special tax bonds previously issued by the San Francisco Redevelopment Agency of the City and County of San Francisco ("Former Redevelopment Agency") to achieve debt service savings, currently estimated at $7.5 million on a net present value basis, and to satisfy the Successor Agency’s obligations under the Mission Bay South Owner Participation Agreement ("OPA") to reimburse FOCIL-MB, LLC, the Master Developer of Mission Bay, ("Master Developer") from a variety of funding sources for public infrastructure improvements it installs pursuant to the OPA. The Series 2013B and 2013C will provide new revenue to reimburse the Master Developer, pursuant to the OPA.

The Mission Bay Project requires substantial new infrastructure (an estimated $700 million in streets, utilities, parks and open space) to convert this infill former rail yard land into a vibrant transit-oriented development. At full build-out, Mission Bay will be comprised of 6,000 units of housing (30% affordable) and an economic and employment engine driven by UCSF’s new research campus and medical center, and private tech and biotech-oriented office and lab space, along with neighborhood retail uses and amenities. In order to catalyze the necessary infrastructure investment, the Former Redevelopment Agency entered into agreements with the Master Developer.
The following is the rationale for approving the issuance of the 2013 Bonds:

- **Enforceable Obligation.** The Successor Agency is contractually obligated under the OPA agreement with the Master Developer to issue CFD bonds when requested, to reimburse infrastructure costs already incurred.

- **Interest Rate Savings.** The savings achieved through the refunding are significant, estimated at $7.5 million on a net present value basis, amounts to more than 8% of the par of the refunded bonds.

- **Importance of the Mission Bay Development.** Infrastructure investment supported by the 2013 Bonds is being leveraged into thousands of new market-rate and affordable housing units, millions of square feet of new research, medical, education, biotech and office space, thousands of construction and permanent jobs, and $9 billion in total new investment in the City at full build-out.

The issuance of the 2013 Bonds has several noteworthy characteristics:

- **Fiscal Neutrality to the Successor Agency, City, and Special Taxing Entities.** The 2013 Bonds are payable exclusively from special taxes levied only against property within CFD No. 6 located in the Mission Bay South Project Area. These special taxes were instituted specifically for the purpose of funding Mission Bay South Project Area infrastructure, and have no impact on City, special taxing agencies, nor Successor Agency revenue. The proposed 2013 Bonds issuance includes a covenant that would preclude the use of tax increment to pay debt service on or to redeem any CFD No. 6 bonds.

- **Precedent.** The 2013 Bonds would be the fourth issuance of bonds for CFD No. 6. Over $114 million of prior special tax bonds have been issued to date for CFD No. 6.

The urgency of the recommended action is driven by the following:

- **Historically Low Interest Rates.** The sizable savings described above are the result of historically low interest rates.

- **Financial Efficiency.** There are limited windows (twice a year) during which existing bonds can be refinanced without additional interest costs associated with refunding bonds on a non-payment date.

- **Substantial Near-Term Infrastructure Investment Required.** The 2013 Bonds help replenish infrastructure resources of the Master Developer at a critical moment in Mission Bay’s development. The $1.6 billion first phase of UCSF’s Medical Center, San Francisco’s $243 million Public Safety Building, and 972 units of new residential are all already under construction and require substantial new infrastructure in the next 18 months, which must be commenced immediately.

The professionals working on the financing team, including bond counsel, disclosure counsel, co-financial advisors and underwriters, were selected from the City’s pre-approved pools. The co-manager, Backstrom Mc Carly Berry & Co., as well as, Kitahata & Company, the co-financial advisor, and Lofton & Jennings, underwriter’s counsel, are minority owned businesses, based in San Francisco.

*Staff recommends approval of the 2013 Bonds and related documents and actions by the Oversight Board, as authorized by the Successor Agency Commission on December 18, 2012.*
BACKGROUND

Mission Bay North and South Project Areas

The Mission Bay North and South Redevelopment Project Areas ("Mission Bay") are comprised of roughly 303 acres of former rail yards, located adjacent to and to the south of AT&T ballpark and the 4th and King Caltrain station (see map, Exhibit A). At full build-out Mission Bay is expected to house approximately 6,000 units of housing (30% affordable), 9 million square feet of research, medical, education, biotech, office and retail space, generate thousands of construction jobs and 30,000 permanent jobs, and spur $9 billion in total new investment in the City. The Mission Bay North Project Area is substantially developed and nearing completion, and is not the subject of the bond program proposed below. The 2013 Bonds will fund public improvements within the Mission Bay South Project Area, which is comprised of the land bound by Mission Creek / China Basin Channel to the north, the Interstate-280 flyover and Caltrain tracks to the west, Mariposa Street to the south, and the San Francisco Bay to the east.

The Mission Bay South Project Area is in the middle of extensive new development of housing, commercial office and retail, a new public safety building, and the University of California, San Francisco ("UCSF") research campus and medical center. Approximately 620 of a total of 3,000+ units of housing have already been built in the Mission Bay South Project Area, with another 972 under construction and 540 breaking ground in the next six months. This new residential community will be served with over a hundred thousand square feet of locally serving retail concentrated along the 4th Street corridor. Over 30% of the total residential units built in the Mission Bay South Project Area will be affordable, with the Master Developer donating sites for these affordable units. The newest Mission Bay affordable housing project is under construction and will provide 150 rental units to low income families.

Over 1.7 million of a total of 4.4 million square feet of new office and lab space has been built to date in the Mission Bay South Project Area, housing companies ranging from traditional companies like Old Navy to biotech like Bayer Pharmaceuticals, Nektar and Fibrogen, to cloud computing companies like Meraki. The $243 million public safety building, future home to San Francisco’s police administrative headquarters and a new police station and firehouse, whose bond financing was approved by San Francisco voters in 2010, is currently under construction and scheduled to open in 2014. The UCSF research campus already has over 2 million square feet of new facilities built out of a total of 2.65 million square feet approved. The $1.6 billion first phase of UCSF’s Mission Bay Medical Center, currently under construction and scheduled to open in early 2015, is comprised of 289 beds in three component hospitals: cancer treatment, women’s health and a children’s hospital.

Significant new public streets, utilities, parks and open space ("Improvements") are needed to serve this development and extend the street grid into this former rail yard, with over 14 acres of new open space already developed in Mission Bay. The Improvements are comprised of an estimated $700 million in new infrastructure across the Mission Bay Project Areas. In order to facilitate the development of the Improvements, the Former Redevelopment Agency entered into a series of agreements with Catellus, the original landowner of a majority of Mission Bay. In 2004, Catellus transferred its rights and obligations under these agreements to FOCIL-MB, LLC, the current Master Developer. The agreements, now between the Successor Agency and the Master Developer, include the OPA which contains both an Infrastructure Plan that specifies
scope and phasing of the Improvements, and a Financing Plan for funding the Improvements. Under these agreements with the Master Developer, Improvements are first built by the Master Developer, and then reimbursed through a variety of funding sources, including tax increment, tax allocation bonds, grants and CFD bond proceeds like those from the 2013 Bonds.

**Enforceable Obligation: Mission Bay South Owner Participation Agreement**

Attachment E, Financing Plan, of the OPA between the Master Developer and Former San Francisco Redevelopment Agency, now the Successor Agency, establishes the protocols for financing infrastructure improvements in the Mission Bay South Project Area (see map, Exhibit A), including the sale of bonds. The OPA is an enforceable obligation consistent with Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Session) ("AB 26") and is included on the Recognized Obligation Payment Schedules ("ROPS"), approved by the Oversight Board on April 10, 2012 (Resolution No. 5-2012), May 7, 2012 (Resolution No. 6-2012), and August 28, 2012 (Resolution No. 11-2101). The ROPS for January to June 2012 and July to December 2012 were approved by the State’s Department of Finance in a letter to the Successor Agency, dated May 25, 2012. The ROPS for January to June 2013 was approved by the Department of Finance in a letter to the Successor Agency, dated October 12, 2012 and December 14, 2012.

In June of 2012, the California legislature adopted Assembly Bill 1484 (Chapter 26, Statutes of 2011-12, Regular Session) ("AB 1484") amending certain provisions of AB 26 (collectively the "Dissolution Law"). Section 34177(a)(1) of AB 1484 clarified that successor agencies had the authority to issue bonds under enforceable obligations existing prior to June 27, 2011. Subsequent to the adoption of AB 1484, the BOS adopted Ordinance No. 215-12 to create a new Commission for the Successor Agency and provide it with certain authority to act as the Successor Agency of the Former Redevelopment Agency. Specifically, Ordinance No. 215-12 allows the Successor Agency Commission to approve the issuance of bonds to carry out the enforceable obligations, subject to any required approvals of the Oversight Board.

Pursuant to Sections 34177.5(a)(1), 34177.5(a)(4), and 34180(b) of the California Health and Safety Code, the Oversight Board’s approval is also required prior to the issuance of the 2013 Bonds. Once the Oversight Board takes action on a bond issuance, their approval is referred to the California State Department of Finance ("DOF"), as required by law.

**Community Facilities District No. 6**

CFD No. 6 was specifically formed, pursuant to Section 3.A of the Financing Plan of the OPA, to finance the Improvements within the Mission Bay South Project Area by levying special taxes only on property owners within CFD No. 6, which is located in the Mission Bay South Project Area. These special taxes are in addition to regular property taxes collected from these owners. The special taxes have been collected from these owners since 2002. Interest and principal of the 2013 Bonds will be paid exclusively from these special taxes and not from any other sources.

The 2013 Bonds will represent the fourth time CFD special tax bonds have been issued for CFD No. 6. The three prior issuances, resulting in over $114 million, have been issued to date within CFD No. 6 and were used to reimburse the Master Developer for Improvements built in and around the Mission Bay South Project Area. The initial formation of CFD No. 6 and the three prior issuances, made in 2001, 2002 and 2005, are described in detail below.
In March of 2000, the Commission of the Former Redevelopment Agency conducted proceedings under and pursuant to the Mello-Roos Community Facilities Act of 1982, as amended ("Act"), to form CFD No. 6, to authorize the levy of special taxes upon the land within CFD No. 6, to issue bonds to finance certain public facilities and to establish an appropriations limit for CFD No. 6, all as described in Resolution Nos. 45-2000, 46-2000 and 47-2000 (collectively, "District Formation Resolutions"), each adopted by the Commission of the Former Redevelopment Agency on March 28, 2000.

The Former Redevelopment Agency entered into a Fiscal Agent Agreement, dated as of June 1, 2001, with Wells Fargo Bank, National Association, as Fiscal Agent ("Fiscal Agent"), and on July 10, 2001, the Former Redevelopment Agency issued $54,000,000 principal amount of CFD No. 6 Special Tax Bonds, Series 2001-South ("2001 Bonds"), to finance various Improvements. The Fiscal Agent Agreement provided that under certain conditions additional bonds may be issued, as authorized by a supplemental fiscal agent agreement, and secured on a parity with the 2001 Bonds.

The Former Redevelopment Agency and the Fiscal Agent subsequently entered into a supplement to Fiscal Agent Agreement and, under the terms of the Fiscal Agent Agreement as supplemented on November 7, 2002, the Former Redevelopment Agency issued $39,330,000 principal amount of its CFD No. 6 Special Tax Bonds, Series 2002 Parity-South ("2002 Bonds"), to provide additional financing for the Improvements.

The Former Redevelopment Agency and the Fiscal Agent also entered into another supplement to the Fiscal Agent Agreement in 2005, and on July 26, 2005, the Former Redevelopment Agency issued $15,160,000 principal amount of CFD No. 6 Special Tax Bonds, Series 2005A Parity-South and $5,708,938.75 principal amount of CFD No. 6 Special Tax Bonds, Series 2005B Parity-South (collectively, "2005 Bonds"), to provide additional financing for the Improvements.

The scheduled debt service on the Series 2001 Bonds, the Series 2002 Bonds and the Series 2005 Bonds has been paid only from the CFD special taxes levied on property in CFD No. 6 and amounts in certain funds held under the Fiscal Agent Agreement and earnings thereon. No tax increment has ever been used to pay debt service on the Series 2001 Bonds, the Series 2002 Bonds or the Series 2005 Bonds.

Former Redevelopment Agency Debt Policy

The Former Redevelopment Agency’s Debt Policy was last updated on March 12, 2004. The Debt Policy provides guidance and standards to staff on the issuance of debt and includes standards for all aspects of bonding, including special tax bonds, refunding obligations, and method of sales such as negotiated sales.

DISCUSSION

As allowed under Section 6A.i of Attachment E, Financing Plan, of the OPA, the Master Developer requested that the Successor Agency issue new parity bonds under the Fiscal Agent
Agreement in order to provide reimbursements for the Improvements. The Successor Agency is obligated, under various agreements with the Master Developer, to issue special tax bonds to pay costs of the improvements. In addition, due to historically favorable interest rates, the outstanding Series 2001 Bonds and Series 2002 Bonds can be refunded with the proceeds of another new series of parity bonds issued under the Fiscal Agent Agreement, resulting in substantial savings in interest costs. The refunding is estimated to generate net present value savings over $7.5 million, or approximately 8.4% of the refunded bonds. New special tax bonds will also be issued, and these proceeds will be utilized to pay for previously incurred infrastructure costs in the Mission Bay South Project Area. There are limited windows (twice a year) during which existing bonds can be refinanced without additional interest costs associated with refunding bonds on a non-payment date, with January 2, 2013 being the deadline for a notice of redemption of the Series 2001 Bonds and Series 2002 Bonds to be given during this current window.

In response to the Master Developer’s request to issue bonds pursuant to the OPA, the Successor Agency Commission reviewed the proposed 2013 Bond issuance and approved it and the associated documents and actions on December 18, 2012, including making several findings related to the 2013 Bonds. Notification of the expected issuance of the 2013 Bonds and the refunding of the Series 2001 Bonds and the Series 2002 Bonds was given on December 24, 2012 to the bond fiscal agent to meet the January 2, 2013 deadline for a notice of redemption. A Preliminary Official Statement ("POS") is anticipated to be released on January 9, 2013 to start the pre-marketing of the 2013 Bonds to ensure the best possible financial terms for the 2013 Bonds. However, as is described in the POS under the “Authorization for Issuance” section, before the 2013 Bonds can be sold and issued, with final pricing, the Oversight Board’s approval is required. The following provides a summary of the various components of the 2013 Bonds that were authorized by the Successor Agency Commission and that Oversight Board’s approval is also being requested.

**Bond Description**

Three series of bonds will be sold: (1) the 2013A Bonds will be used to refund the outstanding 2001 Bonds and 2002 Bonds; and (2) the 2013B Bonds and the 2013C Bonds will be used to finance costs of the Improvements. The 2013 Bonds are consistent with the Former Redevelopment Agency’s Debt Policy.

Series 2013A and 2013B are current interest bonds, and the Series 2013C Bonds are capital appreciation bonds ("CABs"). CABs are different than current interest bonds in terms of the cash flows that support payment of the bonds. Current interest bonds access existing, near-term and medium-term flows of revenue for reimbursement, such as special taxes, that are already available at the time the bond is issued, allowing for the payment of principal and interest from the time of issuance onward. CABs are structured to be able to bond against revenue sources that will be available in the long-term, but are not accessible today — thereby allowing greater access to capital for infrastructure improvements needed today. CABs are not considered any more risky than current interest bonds for the issuer, but their interest expense is higher because the buyer of the bonds has to wait longer to be paid back.

The three series of bonds described above each serve a different purpose. In the case of CFD No. 6, most of the existing current interest bonds are being refinanced with new, lower interest
rate bonds. This is the new Series 2013A bonds. Once those existing bonds are refinanced, the special tax fees collected under CFD No. 6 that had been used to pay the old current interest bond will be available to pay the new current interest bonds (Series 2013A), as well as additional new current interest bonds (Series 2013B). At current market conditions, the Series 2013A bonds will result in significant interest rate savings, which provide additional debt service capacity to repay the Series 2013B bonds.

Finally, the 2013C CABs are secured by special taxes after the two current interest bond series mature. By accessing those future special tax payments through the use of CABs, the Successor Agency will have access sooner to the capital necessary for a portion of the reimbursement due to the Master Developer for its multi-million dollar infrastructure investment in Mission Bay, pursuant to the OPA. CABs are a form of bond in which interest is not currently payable on the bonds. Instead the interest on these obligations accrues and is paid at maturity.

California State Treasurer Bill Lockyer recently expressed concern about the use of CABs in connection with a number of school district financings. His comments addressed a number of issues including the final maturity of the bonds, the fact that total debt service to be paid by the school districts was a multiple of the amount of bond proceeds received by the school districts and the fact that use of CABs increases the amount of interest paid on the amount borrowed relative to current interest bonds. Because no payments are made on a CAB until the future flow of money becomes available, the interest continues to accrue over the years until repayment begins, thereby increasing overall amount of interest paid on the bonds. The Treasurer also expressed concerns because some of the school district CABs did not have early call provisions as is typical for many municipal bonds.

Successor Agency staff believes it is reasonable to use CABs as part of the financing program for CFD No. 6, and has previously used CAB financings for CFD No. 6. By issuing CABs, the Successor Agency will be able to use bond proceeds to reimburse the Master Developer earlier than it would otherwise with current interest bonds. This is consistent with the original intent of the public-private partnership outlined in the OPA between the Successor Agency and the Master Developer to work jointly towards quickly reimbursing the Master Developer for their upfront costs as bond financing is available. In addition, the use of CABs will not impose costs in excess of the total assessed fees that the property owners in CFD No. 6 originally agreed to pay over the lifetime of CFD No. 6. The CABs are subject to optional prepayment which would allow the Agency to refinance them in the future with current interest bonds, repaid by CFD No. 6 special taxes, if market conditions are favorable.

Finally, and most significantly, the 2013 Bonds will not have any impact on the use of tax increment nor the flow of property taxes to taxing entities. The Supplemental Agreement No. 3 to the Fiscal Agent Agreement for the 2013 Bonds, includes a covenant to not allow the use of tax increment for the reimbursement of any CFD No. 6 bonds in the future. Accordingly, the Oversight Board’s approval of the issuance of these bonds is consistent with its fiduciary responsibilities to the holders of enforceable obligations and taxing entities.

Estimated Financing Results

The 2013 Bonds are anticipated to be priced in the fourth week of January 2013 and to close by the end of January 2013, but in no event will these actions take place prior to DOF approval of
the Oversight Board’s action. The true interest cost is expected to range between 4.50% and 5.00% for the 2013A and 2013B Bonds and between 5.90% and 6.40% for the 2013C Bonds. The refunding is estimated to generate net present value savings over $7.5 million, or about 8.4% of the refunded bonds, which will be capitalized and used for the acquisition of public improvements.

Attached to this memorandum is the POS for the proposed 2013 Bond issuance (Exhibit B). It provides descriptions of the 2013 Bonds, the Improvements to be funded with the 2013B and 2013C Bond proceeds, the security and sources of payments for the 2013 Bonds, and other matters related to this transaction.

Credit Rating Considerations

The 2013 Bonds will be sold as unrated securities. The underwriters and financial advisors considered carefully the question of whether or not the transaction should be rated, or should be sold without a rating. There was substantial concern that certain characteristics of the transaction – land-secured and in an urban area with an unusual pattern of development – would make it difficult for the rating agencies to fit this within their typical criteria. Therefore, there was not a high level of comfort that an investment grade rating would be achieved. Additionally, it was the view of the underwriters and financial advisors that, despite the potential difficulties the transaction posed for rating agencies, it would hold strong appeal for the market, and would receive a good reception without a rating. Given the potential downside of the rating process, and the likelihood that a strong pricing would be achieved without a rating, the financial advisors and underwriters have recommended that the sale of the 2013 Bonds be conducted without a rating. It should be noted that this recommendation is for this particular financing with its own time deadlines, and that a rating strategy in the future could be different, especially as development in the area progresses.

Assignment of Professionals

Public Financial Management, Inc. ("PFM") and Kitahata & Company (K&C) were chosen as financial advisors to the Successor Agency for the 2013 Bonds from the City's panel of financial advisors. It was determined in consultation with PFM and K&C that current credit market conditions and the complexity and credit profile of the financing require a negotiated bond sale in order to secure the best terms for the 2013 Bonds. This method of sale allows the underwriters to invest considerably more time assisting prospective investors in a detailed analysis of the credit supporting the 2013 Bonds. The events of the recent past in the financial markets have increased dramatically the investor's attention to the specific credit of each bond issue. Under these circumstances, a negotiated sale would enable the underwriters to market the bonds to particular investors, and ultimately lower interest rates than would be otherwise achieved.

The underwriters were also chosen from the City's bond underwriter panel. Stone & Youngberg was chosen as manager and Backstrom McCarly Berry & Co. was chosen to serve as co-manager for the 2013 Bonds. The underwriters will be represented by the law firm of Lofton & Jennings. Quint & Thimmig LLP and Jones Hall were selected to serve as bond counsel and disclosure counsel, respectively, to the Successor Agency for the 2013 Bonds. Quint & Thimmig LLP assisted the Former Redevelopment Agency in forming CFD No. 6 and has served as bond counsel for all of the issues of special tax bonds for the Mission Bay development. Jones Hall
was chosen due to its familiarity with the Former Redevelopment Agency, having acted as bond counsel for several Former Redevelopment Agency financings. Professionals working on the financing team, including bond counsel, disclosure counsel, co-financial advisors and underwriters, were selected from the City's pre-approved pools and the co-manager, Backstorm McCarly Berry & Co., as well as, Kitahata & Company, the co-financial advisor, and Lofton & Jennings, underwriter's counsel, are minority owned businesses, based in San Francisco.

**NEXT STEPS**

Pursuant to Sections 34177.5(a)(1), 34177.5(a)(4), and 34180(b) of the California Health and Safety Code, the Oversight Board’s approval is required prior to the issuance of bonds. Once the Oversight Board has taken action, their approval will be referred to the DOF, as required by law. DOF has 5 days to review, but within that 5-day period could extend review time to 60 days, per California Health and Safety Code Section 34177.5(f). If DOF approves the bond issuance in the initial 5-day period, the bonds will be priced the fourth week of January and the bond issuance will be finalized by the end of January 2013.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Authorizing the issuance of the 2013 Bonds and approving related documents and actions will provide funding for Successor Agency activities and are Oversight Board fiscal activities that are not “projects” as defined by California Environmental Quality Act (“CEQA”) Guidelines Section 15378(b)(4). These actions will not independently result in a physical change in the environment and are not subject to environmental review under CEQA.

**STAFF RECOMMENDATION**

Staff recommends approval of the 2013 Bonds and related documents and actions, as authorized by the Successor Agency Commission on December 18, 2012.

*(Originated by Catherine Reilly, Acting Project Manager and John Daigle, Senior Financial Analyst)*

Tiffany Bohee  
Executive Director

Exhibit A: Mission Bay Map  
Exhibit B: Preliminary Official Statement for 2013 Bonds