Commission on Community Investment and Infrastructure

RESOLUTION NO. 4-2014
Adopted January 21, 2014

RESOLUTION CONFIRMING THE ISSUANCE AND SALE OF SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO 2014 SERIES A TAX ALLOCATION BONDS (MISSION BAY SOUTH REDEVELOPMENT PROJECT) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $70,000,000, APPROVING PRELIMINARY AND FINAL OFFICIAL STATEMENTS AND A CONTINUING DISCLOSURE CERTIFICATE, AND APPROVAL OF OTHER RELATED DOCUMENTS AND ACTIONS; MISSION BAY SOUTH REDEVELOPMENT PROJECT AREA

WHEREAS, The Redevelopment Agency of the City and County of San Francisco (the "Former Redevelopment Agency") and FOCIL-MB, LLC (the "Master Developer"), as assignee of Catellus Development Corporation, are parties to a Mission Bay South Owner Participation Agreement executed November 16, 1998, as amended by the First Amendment, dated February 17, 2004, by the Second Amendment, dated Nov. 1, 2005, and by the Third Amendment, dated May 21, 2013, and by the Fourth Amendment, dated June 4, 2013, (the "OPA"), which includes Attachment E thereto, entitled "Mission Bay South Financing Plan" (the "Financing Plan"); and,

WHEREAS, In connection with the execution of the OPA, and as part of the OPA, the Former Redevelopment Agency entered into a series of binding agreements regarding the public and private project to be financed through the OPA, including the Mission Bay South Tax Increment Allocation Pledge Agreement executed November 16, 1998, by and between the City and County of San Francisco and the Former Redevelopment Agency (the "Pledge Agreement"), to which the Master Developer is an express third-party beneficiary; and,

WHEREAS, Under California Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") and the California Supreme Court's decision in California Redevelopment Association v. Matosantos, No. 5194861, all redevelopment agencies in the State of California (the "State"), including the Former Redevelopment Agency, were dissolved by operation of law as of February 1, 2012, and their non-affordable housing assets and obligations were transferred to certain designated successor agencies; and,

WHEREAS, In June of 2012, the California legislature adopted Assembly Bill 1484 ("AB 1484") amending certain provisions of AB 26 and clarifying that successor agencies are separate public entities, Section 34173 (g) the California Health and Safety Code, and have the authority, with approval of the oversight board and Department of Finance, to issue certain bonds, Section 34177.5(a)(4) of the

California Health and Safety Code ("Section 34177.5(a)(4)"), and the Governor of the State signed the bill and it became effective on June 27, 2012; and,

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

WHEREAS, The Successor Agency is also known as the Office of Community Investment and Infrastructure ("OCII") and its commission is known as the Commission on Community Investment and Infrastructure; and,

WHEREAS, The Financing Plan and the Pledge Agreement pledge tax increment generated from the Mission Bay South Redevelopment Project Area to the Master Developer to reimburse the Master Developer for Infrastructure Costs (as defined in the Financing Plan), which includes using such tax increment revenues to pay debt service on Tax Allocation Debt (as such term is defined in the Financing Plan); and,

WHEREAS, Pursuant to the Financing Plan, the Successor Agency is obligated to issue Tax Allocation Debt so long as any of the Infrastructure has not been completed or the costs of Infrastructure have not been reimbursed to the Master Developer from the proceeds of Net Available Increment (as such term is defined in the Financing Plan) or Tax Allocation Debt, the Master Developer has submitted a written request to the Successor Agency, as successor to the Former Redevelopment Agency, requesting the Successor Agency to issue CFD debt or Tax Allocation Debt (as such terms are defined in the Financing Plan), and the staff of the Successor Agency and appropriate Successor Agency consultants have met and conferred with the Master Developer as to the amount and timing of the proposed bond issue, Sections 6.A. of Financing Plan at p. 13-14; and,

WHEREAS, The Master Developer has submitted such a written request to the Successor Agency, Letter, November 15, 2012 and November 15, 2013 and the staff of the Successor Agency, appropriate Successor Agency consultants and the Master Developer have met and conferred and have determined that, pursuant to the Financing Plan and the Pledge Agreement, the Successor Agency will issue Tax Allocation Debt to reimburse the Master Developer for Infrastructure Costs; and,

WHEREAS, Section 34177.5(a)(4) provides that a successor agency may issue bonds or incur other indebtedness to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property tax increment, formerly tax increment revenues, or other funds and the obligation to issue bonds secured by that pledge; and,

WHEREAS, The OPA, including the Financing Plan and the Pledge Agreement, contain an irrevocable pledge of property tax increment, formerly tax increment revenues, to the payment of Infrastructure Costs, and the Successor Agency is obligated, under the OPA, including the Financing Plan and the Pledge Agreement, to issue bonds or incur other indebtedness secured by an irrevocable pledge of tax increment revenues to pay such Infrastructure Costs; and,

WHEREAS, Inasmuch as the requirements of Section 34177.5(a)(4) have been met, in response to the request of the Master Developer, the Successor Agency has determined to issue, pursuant to the authority set forth in Section 34177.5(a)(4), its 2014 Bonds (as defined below); and,

WHEREAS, The 2014 Bonds will be payable from Tax Revenues, as such termed in defined in the hereinafter mentioned Indenture; and,

WHEREAS, The Successor Agency, pursuant to Resolution No. 52-2013, adopted November 5, 2013, approved the issuance of the 2014 Bonds and the execution of certain documents relating to the 2014 Bonds, including the Indenture of Trust pursuant to which the 2014 Bonds will be issued (the "Indenture"), and requested that the Oversight Board for the Successor Agency (the "Oversight Board") approve the issuance of the Bonds by the Successor; and,

WHEREAS The Oversight Board by Resolution No. 11, adopted November 13, 2013, approved the issuance of the 2014 Bonds by the Successor Agency, and said

Resolution has been forwarded to the California Department of Finance ("DOF") pursuant to Sections 34177.5(f) and 34179(h) of the California Health and Safety Code; and,

WHEREAS, The Successor Agency, with the assistance of its disclosure counsel, its bond counsel, its financial advisor, its fiscal consultant and the Underwriters (as defined below), has caused to be prepared a form of Official Statement describing the Bonds and containing material information relating to the 2014 Bonds, the preliminary form of which is on file with the Secretary of the Successor Agency; and,

WHEREAS, The Board of Supervisors has heretofore approved the issuance of the 2014 Bonds in the amount of not to exceed $58,600,000 in its Resolution No. 237-13 adopted on July 16, 2013 and approved by the Mayor on July 25, 2013, and, on December 10, 2013, the Board of Supervisors adopted its Resolution No. 445-13, in which it modified its prior approval of the issuance of the 2014 Bonds by increasing the amount of 2014 Bonds that may be issued to an amount of not to exceed $70,000,000, which Resolution No. 445-13 was approved by the Mayor on December 18, 2013; and,

WHEREAS, The sale and issuance of the 2014 Bonds are Successor Agency fiscal activities that do not constitute a "Project" as defined by the California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(4), will not independently result in a physical change in the environment, and are not subject to environmental review under CEQA; now, therefore, be it

RESOLVED, The Successor Agency Commission finds that:

The Successor Agency has full authority, subject to DOF approval, under Section 34177.5(a)(4) of the California Health and Safety Code to issue the 2014 Bonds to reimburse the Master Developer for Infrastructure Costs, as required by the OPA, and upon the Oversight Board's approval and the Department of Finance's non-objection to or approval of the Oversight Board's Resolution; and, be it further

RESOLVED Upon receipt of DOF approval, all acts and proceedings required by law necessary to make the 2014 Bonds, when executed by the Successor Agency, authenticated and delivered by the trustee for the 2014 Bonds (the "Trustee") and duly issued, the valid, binding and legal special obligations of the Successor Agency, and to constitute the Indenture a valid and binding agreement for the uses and purposes therein set forth, in accordance with its terms, will have been done or taken and the execution and delivery of the Indenture will have been in all respects duly authorized; and, be it further

RESOLVED, The Successor Agency hereby approves the preliminary Official Statement describing the 2014 Bonds, in substantially the form on file with the Successor Agency's Secretary. Distribution of the preliminary Official Statement by De La Rosa & Co., Inc. and Backstrom McCarley Berry & Co., LLC (collectively, the "Underwriters") is hereby approved, and, prior to the distribution of the preliminary Official Statement, the Executive Director and the Deputy Executive

Director, Finance and Administration (each being hereinafter referred to as an "Authorized Officer"), each acting alone, are hereby authorized and directed, on behalf of the Successor Agency, to deem the preliminary Official Statement "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule"). The execution of the final Official Statement, which shall include such changes and additions thereto deemed advisable by an Authorized Officer, and such information permitted to be excluded from the preliminary Official Statement pursuant to the Rule, is hereby approved for delivery to the purchasers of the Bonds, and the Authorized Officers, each acting alone, are hereby authorized and directed to execute and deliver the final Official Statement for and on behalf of the Successor Agency, to deliver to the Underwriters a certificate with respect to the information set forth therein and to deliver to the Underwriter a Continuing Disclosure Certificate substantially in the form appended to the final Official Statement; and, be it further

RESOLVED, The Successor Agency Commission hereby authorizes and directs the officers and agents of the Successor Agency to do any and all things and take any and all actions and to execute any and all certificates, agreements and other documents, including, but not limited to, the purchase of a bond insurance policy or a surety bond, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the 2014 Bonds in accordance with this Resolution and Resolution No. 52-2013; and, be it further

RESOLVED, The Successor Agency Commission hereby confirms its actions in Resolution No. 52-2013 authorizing and approving the issuance of the 2014 Bonds pursuant to the Indenture in accordance with Section 34177.5(a)(4) of the California Health and Safety Code in the aggregate principal amount not to exceed $70,000,000, and the sale of the 2014 Bonds to the Underwriters, provided that the true interest cost of the 2014 Bonds shall not exceed 7.00% and the Underwriters' discount (exclusive of original issue discount) shall not exceed 0.65%, as authorized in Oversight Board Resolution No. 11-2-13.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of January 21, 2014.

Natasha Jones
Commission Secretary