

1 [Approving an Amendment to the Western Addition A-2 Redevelopment Plan to Extend the  
2 Redevelopment Agency's Time for Issuing and Repaying Debt and to Suspend the Limit on  
3 Total Tax Increment Revenue for Affordable Housing Development.]

4 **Ordinance approving an amendment to the Western Addition A-2 Redevelopment Plan**  
5 **to extend both the time for issuance of debt and the receipt of tax increment by the San**  
6 **Francisco Redevelopment Agency and to suspend the limit on the total number of**  
7 **dollars of tax increment revenue that may be received by the San Francisco**  
8 **Redevelopment Agency under the Plan in order to continue financing Low and**  
9 **Moderate Income Housing Fund activities under the Plan.**

10 Note: Additions are *single-underline italics Times New Roman*;  
11 deletions are ~~*strikethrough italics Times New Roman*~~.  
12 Board amendment additions are double underlined.  
13 Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The Board of Supervisors of the City and County of San Francisco hereby  
15 finds and declare as follows:

16 a. The Board of Supervisors of the City and County of San Francisco ("Board of  
17 Supervisors"), as the legislative body of the Redevelopment Agency of the City and County of  
18 San Francisco ("Redevelopment Agency"), originally approved the Redevelopment Plan for  
19 the Western Addition A-2 Redevelopment Project by adopting Ordinance No. 273-64 on  
20 October 13, 1964. Since then, the Board of Supervisors has amended the plan seven times.  
21 (The plan, as so amended, is referred to herein as the "Plan"). The Plan contains several  
22 limitations on the use of property taxes received pursuant to California Health and Safety  
23 Code Section 33670 previously imposed by the Community Redevelopment Law, California  
24 Health and Safety Code Sections 33000 et seq. (All future section references are to the  
25 California Health and Safety Code unless otherwise noted.) The Plan presently (i) prohibits,

1 pursuant to Ordinance No. 211-03, the Redevelopment Agency from incurring new debt after  
2 January 1, 2009; (ii) prohibits the Redevelopment Agency from repaying any debt incurred for  
3 the Plan after January 1, 2019; and (iii) imposes a \$270 million limit on the total amount of tax  
4 increment revenue that the Redevelopment Agency may receive cumulatively over the life of  
5 the Plan for redevelopment activities.

6 b. The total amount of tax increment revenue received or projected to be received  
7 by the Redevelopment Agency over the life of the Plan is over \$268,000,000; thus the limit on  
8 tax increment revenue for the Plan has either been reached or substantially reached.

9 c. The Plan will expire on January 1, 2009, after which time the Redevelopment  
10 Agency shall have no authority to act pursuant to the Plan and Section 33333.6 (a) except to  
11 pay previously incurred indebtedness, to comply with Section 33333.8, and to enforce existing  
12 covenants, contracts, or other obligations. Furthermore, Section 33333.4 provides that the  
13 Redevelopment Agency shall not have the authority to establish or incur loans, advances, or  
14 indebtedness to be repaid from the allocation of tax increment after Plan expiration “except as  
15 necessary to comply with subdivision (a) of Section 33333.8.”

16 d. Since January 1, 1976, all redevelopment agencies have had a statutory  
17 obligation under Section 33413 to provide an equal number of replacement housing units  
18 when they destroy or remove housing affordable by low or moderate income persons  
19 (“Affordable Housing”) in a redevelopment project area.

20 e. In 2000, the California Legislature added Section 33333.7 (Senate Bill  
21 No. 2113), which authorized the Redevelopment Agency, with the Board of Supervisors  
22 approval, to extend its tax increment revenue financing powers under any pre-1994  
23 redevelopment plan “to redress the demolition of a substantial number of residential dwelling  
24 units affordable to very low, low, and moderate income households during the agency’s earlier  
25

1 urban renewal efforts [prior to 1976].” (Statutes 2000, Chapter 661 § 1(a)). The California  
2 Legislature found that the “Redevelopment Agency of the City and County of San Francisco,  
3 due to its unique housing situation and net loss of affordable housing units in [older] project  
4 areas, wishes, to the greatest extent feasible, to replace these lost units according to the  
5 formulas set forth in Section 33413 of the Health and Safety Code.” (Statutes 2000,  
6 Chapter 661 § 1 (b)).

7 f. By virtue of its acknowledgement of the Redevelopment Agency’s interest in  
8 fulfilling its housing obligation to replace units lost prior to 1976, Section 33333.7 is a statute  
9 similar, and related, to Section 33413.

10 g. The California Department of Housing and Community Development has  
11 determined that, prior to 1976, the Redevelopment Agency demolished 14,207 units and  
12 replaced 7,498 units, resulting in a net loss of 6,709 affordable units (“Agency’s Housing  
13 Obligation”). To date, the Redevelopment Agency has not replaced these lost units, but has  
14 committed funding for the construction of approximately 794 replacement units that are in the  
15 predevelopment phase.

16 h. As originally enacted, Section 33333.7 (Senate Bill No. 2113) authorized the  
17 Redevelopment Agency to incur indebtedness exclusively for fulfilling the Agency’s Housing  
18 Obligation until the earlier of either January 1, 2014 or the Redevelopment Agency’s  
19 replacement of all Affordable Housing lost as a result of the implementation of redevelopment  
20 plans adopted prior to 1976. Section 33333.7 also authorized the Redevelopment Agency to  
21 receive tax increment funds through 2044 to repay indebtedness incurred to fund the  
22 Agency’s Housing Obligation.

23 i. In 2001, the California Legislature revised the Health and Safety Code to add  
24 Section 33333.8 and Section 33333.6(f). Under Section 33333.8, a local legislative body  
25

1 must suspend any time limit in a redevelopment plan for the receipt of tax increment revenue  
2 and the repayment of debt, and any limit on the total amount of tax increment funds that a  
3 redevelopment agency may receive for any project area, until the redevelopment agency  
4 fulfills its affordable housing obligations. Section 33333.8(a)(1)(E) defines these housing  
5 obligations to include “the obligation to provide replacement housing pursuant to  
6 subdivision (a) of Section 33413, Article 9 (commencing with Section 33410), and other  
7 similar and related statutes” and thus includes the Agency’s Housing Obligation.  
8 Section 33333.6(f) confirms that the suspension of plan limits provided by Section 33333.8  
9 applies to redevelopment plans adopted on or before December 31, 1993. Under  
10 Section 33333.6(e)(4)(B) and Section 33333.8, the Board of Supervisors may amend or  
11 suspend the Plan limits as contemplated by this Ordinance without following the amendment  
12 process otherwise required by the Community Redevelopment Law.

13 j. Section 33333.8 and its suspension of tax increment limits for the funding of  
14 Affordable Housing applies to every redevelopment project area established under the  
15 Community Redevelopment Law “[n]otwithstanding any other provision of law.”  
16 Section 33333.8(a).

17 k. Under Section 33333.8 and Section 33333.7, the Redevelopment Agency and  
18 the Board of Supervisors have the authority to amend the Plan to extend the Redevelopment  
19 Agency’s authority: 1) to incur indebtedness for the exclusive purpose of fulfilling the Agency’s  
20 Housing Obligation until January 1, 2014 (or the date the Redevelopment Agency has  
21 satisfied the Agency’s Housing Obligation, if earlier); 2) if the Redevelopment Agency has not  
22 fulfilled the Agency’s Housing Obligation by January 1, 2014, to continue incurring  
23 indebtedness for the exclusive purpose of fulfilling the Agency’s Housing Obligation until the  
24 date the Redevelopment Agency has satisfied the Agency’s Housing Obligation; and 3) to  
25

1 permit the Redevelopment Agency to receive additional tax increment revenue from the  
2 Western Addition Redevelopment Project Area A-2 for use in fulfilling the Agency's Housing  
3 Obligation until January 1, 2044 or later if the Redevelopment Agency must incur  
4 indebtedness after January 1, 2014 to fulfill the Agency's Housing Obligation, subject only to  
5 the payment of funds to repay indebtedness.

6 l. On June 24, 2008, the Board of Supervisors adopted Resolution No. 08-0922,  
7 approving the Redevelopment Agency's budget for fiscal year 2008-09, and Resolution No.  
8 08-0728, authorizing the Redevelopment Agency's issuance of bonds, including at least  
9 approximately \$5,000,000 that are contingent on the adoption of this Ordinance.

10 m. The Board of Supervisors previously approved the following ordinances  
11 extending the Redevelopment Agency's tax increment authority for the exclusive purpose of  
12 financing Low and Moderate Income Housing Fund and fulfilling the Redevelopment Agency's  
13 Housing Obligation: 1) in Ordinance No. 15-05, extending time limits for establishment of  
14 loans, advance, and indebtedness applicable to the Embarcadero-Lower Market (Golden  
15 Gateway) Redevelopment Plan, the Hunters Point Redevelopment Plan, and the India Basin  
16 Redevelopment Plan; and 2) in Ordinances Nos. 115-07 and 201-07, extending time limits for  
17 the Redevelopment Agency's receipt of tax increment and suspending both the limit of total  
18 indebtedness outstanding at any one time and the limit on the total number of dollars of tax  
19 increment revenue that the Redevelopment Agency may receive under the Rincon Point-  
20 South Beach Redevelopment Plan.

21 n. The Redevelopment Agency has made all payments to taxing entities required  
22 under Section 33607.5 through the January 1, 2009 Plan expiration date.

23 o. This Ordinance is exempt from the California Environmental Quality Act  
24 (California Public Resources Code Sections 21000 et seq. and hereafter referred to as  
25

1 “CEQA”) because it creates a government funding mechanism that does not involve any  
2 commitment to any specific project which may result in a potentially significant physical impact  
3 on the environment and therefore is not a “project” under Sections 15378(b)(4) and  
4 15060(c)(3) of the State CEQA Guidelines.

5 Section 2. Pursuant to Sections 33333.8, 33333.7, and 33333.6(e)(4)(B), the Board of  
6 Supervisors of the City and County of San Francisco hereby approves the Redevelopment  
7 Plan Amendment filed with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.  
8 The Redevelopment Plan Amendment will (i) extend the time limit for the establishment of  
9 indebtedness to be paid with the proceeds of property taxes for the exclusive purpose of  
10 enabling the Redevelopment Agency to fulfill the Agency’s Housing Obligations under  
11 Sections 33333.8(a) and 33333.7(d); (ii) extend the time limit for the receipt of tax increment  
12 revenue to repay indebtedness for the exclusive purpose of enabling the Redevelopment  
13 Agency to fulfill the Agency’s Housing Obligation under Sections 33333.8(a) and 33333.7(d);  
14 and (iii) suspend, for the exclusive purpose of fulfilling the Agency’s Housing Obligation the  
15 \$270,000,000 limit on the amount of tax increment funds that the Redevelopment Agency may  
16 receive.

17 Section 3. This Ordinance shall not be effective until the Redevelopment Agency shall  
18 have adopted a policy requiring that it use, to the greatest extent feasible, any tax increment  
19 revenue authorized by the Redevelopment Plan Amendment to fulfill the Agency’s Housing  
20 Obligation by assisting Affordable Housing in the Western Addition A-2 Redevelopment  
21 Project.

22 Section 4. The Board of Supervisors shall consider, in deciding whether to approve the  
23 Redevelopment Agency's annual budget pursuant to Section 33606 of the California Health  
24 and Safety Code, whether the Redevelopment Agency's work program includes, to the  
25

1 greatest extent feasible, the use of tax increment revenue authorized by the Redevelopment  
2 Plan Amendment to fulfill the Agency's Housing Obligation by assisting Affordable Housing in  
3 the Western Addition A-2 Redevelopment Project.

4 Section 35. Nothing in this Ordinance shall be construed to: 1) extend the  
5 effectiveness of the Plan beyond its expiration date of January 1, 2009; 2) limit the  
6 Redevelopment Agency's ability to refund, in whole or in part, any indebtedness incurred by  
7 the Redevelopment Agency for any purpose so long as the refunding achieves debt service  
8 savings, or 3) authorize the Redevelopment Agency to incur any indebtedness not previously  
9 approved by the Board of Supervisors.

10 Section 4-6. The Clerk of the Board of Supervisors shall without delay (1) transmit a  
11 copy of this Ordinance to the Redevelopment Agency, (2) record or ensure that the  
12 Redevelopment Agency records a certified copy of this Ordinance, and (3) transmit, by  
13 certified mail, return receipt requested, a copy of this Ordinance, together with a copy of the  
14 Redevelopment Plan Amendment and a legal description of the Western Addition A-2  
15 Redevelopment Project Area and a map indicating the boundaries of the Western Addition  
16 A-2 Redevelopment Project Area, to the Controller, the Tax Assessor, the State Board of  
17 Equalization and the governing body of all taxing agencies in the Western Addition A-2.  
18

19 APPROVED AS TO FORM:  
20 DENNIS J. HERRERA, City Attorney

21 By: \_\_\_\_\_  
22 Anita L. Wood  
23 Deputy City Attorney  
24  
25