

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

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

13 a. The Board of Supervisors of the City and County of San Francisco ("Board of
14 Supervisors"), as the legislative body of the Redevelopment Agency of the City and County of
15 San Francisco ("Redevelopment Agency"), originally approved the Redevelopment Plan for
16 the Western Addition A-2 Redevelopment Project by adopting Ordinance No. 273-64 on
17 October 13, 1964. Since then, the Board of Supervisors has amended the plan seven times.
18 (The plan, as so amended, is referred to herein as the "Plan"). The Plan contains several
19 limitations on the use of property taxes received pursuant to California Health and Safety
20 Code Section 33670 previously imposed by the Community Redevelopment Law, California
21 Health and Safety Code Sections 33000 et seq. (All future section references are to the
22 California Health and Safety Code unless otherwise noted.) The Plan presently (i) prohibits,
23 pursuant to Ordinance No. 211-03, the Redevelopment Agency from incurring new debt after
24 January 1, 2009; (ii) prohibits the Redevelopment Agency from repaying any debt incurred for
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1 the Plan after January 1, 2019; and (iii) imposes a \$270 million limit on the total amount of tax
2 increment revenue that the Redevelopment Agency may receive cumulatively over the life of
3 the Plan for redevelopment activities.

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

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

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

18 e. In 2000, the California Legislature added Section 33333.7 (Senate Bill
19 No. 2113), which authorized the Redevelopment Agency, with the Board of Supervisors
20 approval, to extend its tax increment revenue financing powers under any pre-1994
21 redevelopment plan “to redress the demolition of a substantial number of residential dwelling
22 units affordable to very low, low, and moderate income households during the agency’s earlier
23 urban renewal efforts [prior to 1976].” (Statutes 2000, Chapter 661 § 1(a)). The California
24 Legislature found that the “Redevelopment Agency of the City and County of San Francisco,
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1 due to its unique housing situation and net loss of affordable housing units in [older] project
2 areas, wishes, to the greatest extent feasible, to replace these lost units according to the
3 formulas set forth in Section 33413 of the Health and Safety Code.” (Statutes 2000,
4 Chapter 661 § 1 (b)).

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

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

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

21 i. In 2001, the California Legislature revised the Health and Safety Code to add
22 Section 33333.8 and Section 33333.6(f). Under Section 33333.8, a local legislative body
23 must suspend any time limit in a redevelopment plan for the receipt of tax increment revenue
24 and the repayment of debt, and any limit on the total amount of tax increment funds that a
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1 redevelopment agency may receive for any project area, until the redevelopment agency
2 fulfills its affordable housing obligations. Section 33333.8(a)(1)(E) defines these housing
3 obligations to include “the obligation to provide replacement housing pursuant to
4 subdivision (a) of Section 33413, Article 9 (commencing with Section 33410), and other
5 similar and related statutes” and thus includes the Agency’s Housing Obligation.
6 Section 33333.6(f) confirms that the suspension of plan limits provided by Section 33333.8
7 applies to redevelopment plans adopted on or before December 31, 1993. Under
8 Section 33333.6(e)(4)(B) and Section 33333.8, the Board of Supervisors may amend or
9 suspend the Plan limits as contemplated by this Ordinance without following the amendment
10 process otherwise required by the Community Redevelopment Law.

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

15 k. Under Section 33333.8 and Section 33333.7, the Redevelopment Agency and
16 the Board of Supervisors have the authority to amend the Plan to extend the Redevelopment
17 Agency’s authority: 1) to incur indebtedness for the exclusive purpose of fulfilling the Agency’s
18 Housing Obligation until January 1, 2014 (or the date the Agency has satisfied the Agency’s
19 Housing Obligation, if earlier); 2) if the Redevelopment Agency has not fulfilled the Agency’s
20 Housing Obligation by January 1, 2014, to continue incurring indebtedness for the exclusive
21 purpose of fulfilling the Agency’s Housing Obligation until the date the Agency has satisfied
22 the Agency’s Housing Obligation; and 3) to permit the Redevelopment Agency to receive
23 additional tax increment revenue from the Western Addition Redevelopment Project Area A-2
24 for use in fulfilling the Agency’s Housing Obligation until January 1, 2044 or later if the
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1 Agency must incur indebtedness after January 1, 2014 to fulfill the Agency's Housing
2 Obligation, subject only to the payment of funds to repay indebtedness.

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

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

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

20 o. This Ordinance is exempt from the California Environmental Quality Act
21 (California Public Resources Code Sections 21000 et seq. and hereafter referred to as
22 "CEQA") because it creates a government funding mechanism that does not involve any
23 commitment to any specific project which may result in a potentially significant physical impact
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1 on the environment and therefore is not a “project” under Sections 15378(b)(4) and
2 15060(c)(3) of the State CEQA Guidelines.

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

14 Section 3. Nothing in this Ordinance shall be construed to: 1) extend the effectiveness
15 of the Plan beyond its expiration date of January 1, 2009; 2) limit the Redevelopment
16 Agency’s ability to refund, in whole or in part, any indebtedness incurred by the
17 Redevelopment Agency for any purpose so long as the refunding achieves debt service
18 savings, or 3) authorize the Redevelopment Agency to incur any indebtedness not previously
19 approved by the Board of Supervisors.

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

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

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7 By: _____
8 Anita L. Wood
9 Deputy City Attorney

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