

Commission on Community Investment and Infrastructure

RESOLUTION NO. 51-2013

**Adopted October 15, 2013**

AUTHORIZING THE SUBMISSION TO THE CALIFORNIA DEPARTMENT OF FINANCE OF A REQUEST FOR A FINAL AND CONCLUSIVE DETERMINATION THAT SENATE BILL NO. 2113 (2000) ESTABLISHED AN ENFORCEABLE OBLIGATION REGARDING THE FUNDING AND DEVELOPMENT OF AFFORDABLE REPLACEMENT HOUSING UNITS

WHEREAS, in 2000, the California Legislature enacted special legislation providing that the Redevelopment Agency of the City and County of San Francisco (“Former Redevelopment Agency”), with the consent of the Board of Supervisors of the City and County of San Francisco (“Board of Supervisors”), could extend the tax increment authority under certain expiring redevelopment plans for the exclusive purpose of fulfilling a replacement housing obligation triggered by the Former Redevelopment Agency’s destruction of affordable housing units prior to 1976 (Senate Bill No. 2113 (Statutes 2000, chapter 661), codified at Cal. Health & Safety Code § 33333.7 (“SB 2113” or the “Replacement Housing Obligations”)); and

WHEREAS, the California Legislature, in enacting SB 2113, found that the Former Redevelopment Agency, “due to its unique housing situation and net loss of affordable housing units in [older] project areas, wishes, to the greatest extent feasible, to replace these lost units according to the formulas” for fulfilling the replacement housing obligation under the Community Redevelopment Law, Statutes 2000, chapter 661, § 1 (a) and (b); and

WHEREAS, in 2003, the California Department of Housing and Community Development determined that the Former Redevelopment Agency had destroyed, prior to 1976, 6709 housing units that had been occupied by low- and moderate-income households and had never replaced those units; and

WHEREAS, the Board of Supervisors adopted, pursuant to SB 2113, a series of ordinances amending certain redevelopment plans and authorizing the issuance of debt and the receipt of tax increment for funding the Replacement Housing Obligations: Ordinance No. 15-05 (Jan. 21, 2005) (amending the Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan, the Hunters Point Redevelopment Plan, and the India Basin Redevelopment Plan); Ordinance No. 115-07 (May 18, 2007) (amending the Rincon Point-South Beach Redevelopment Plan); Ordinance No. 316-08 (Dec. 19, 2008) (amending the Western Addition A-2 Redevelopment Plan); Ordinance No. 256-09 (Dec. 18, 2009) (amending the Yerba Buena Center Redevelopment Plan); and

- WHEREAS, between 2005 and 2011, the Former Redevelopment Agency issued tax increment debt to fund 867 affordable replacement housing units, which include 698 units in twelve completed housing projects, 37 units under construction, and 132 units in the pre-construction phase of development; and
- WHEREAS, the state dissolved redevelopment agencies on February 1, 2012 under Assembly Bill No. 1X 26 (Statutes 2011, 1<sup>st</sup> Extraordinary Session, chapter 5) (“AB 26”) and California Redevelopment Association v. Matosantos (2011) 53 Ca. 4<sup>th</sup> 231, but required successor agencies to fulfill redevelopment agencies’ enforceable obligations that had been established prior to dissolution and further provided that “obligations imposed by state law” are enforceable obligations that survive dissolution, Cal. Health & Safety Code § 34171 (d) (1) (C); and
- WHEREAS, AB 26, as amended by Assembly Bill No. 1484 (Statutes 2012, chapter 26) (“Redevelopment Dissolution Law”) provides oversight boards with the authority to review and approve expenditures for enforceable obligations on Recognized Obligations Payment Schedules (“ROPS”) and the Oversight Board of the City and County of San Francisco has approved the Replacement Housing Obligations as an enforceable obligation requiring the Successor Agency to the Former Redevelopment Agency (“Successor Agency”) to fund 6709 units of affordable housing, Oversight Board Resolution No. 5-2012 (April 10, 2012); and
- WHEREAS, the Successor Agency has listed the Replacement Housing Obligations on four ROPS that the Oversight Board and the Department of Finance have reviewed and approved and has included them on the ROPS for January – June 2014 that the Oversight Board has approved and is currently pending before the Department of Finance (“DOF”); and
- WHEREAS, Redevelopment Dissolution Law provides that DOF may provide, upon request by a successor agency, written confirmation that its approval of an enforceable obligation on a ROPS is “final and conclusive, and reflects the department’s approval of subsequent payments made pursuant to the enforceable obligation.” Cal. Health & Safety Code § 34177.5 (i). To qualify for a final and conclusive determination, an enforceable obligation must provide for an “irrevocable commitment of property tax revenue” and an allocation of property tax revenues over time. Id. The effect of the final and conclusive determination is to limit DOF’s review on future ROPS to a confirmation that the payments are required by the enforceable obligation; and
- WHEREAS, Successor Agency staff has drafted a Request for a Final and Conclusive Determination that the Replacement Housing Obligation is an enforceable obligation meeting the criteria for a final and

conclusive determination under Redevelopment Dissolution Law and has attached that Request to this Resolution; now, therefore, be it

RESOLVED, That the Commission on Community Investment and Infrastructure, acting as the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, does hereby authorize the submission of the Request for a Final and Conclusive Determination, substantially in the form of the attachment to this Resolution, to the Department of Finance for the purpose of establishing finally and conclusively that the replacement of affordable housing destroyed by the Former Redevelopment Agency prior to 1976 is an enforceable obligation.

- Attachment 1: Final and Conclusive Determination Request Form (Draft 10.09.13)
- Exhibit A: Senate Bill No. 2113
- Exhibit B: Ordinance No. 250-09 - Approving Amendments to the Yerba Buena Center Redevelopment Plan
- Exhibit C: Ordinance No. 316-08 - Approving an Amendment to the Western Addition A-2 Redevelopment Plan
- Exhibit D: Ordinance No. 115-07 - Approving an Amendment to the Rincon Point-South Beach Redevelopment Plan
- Exhibit E: Ordinance No. 15-05 - Extending Redevelopment Agency's Times for Incurring and Repaying Debt for Affordable Housing Development
- Exhibit F: Certification of San Francisco's Need to Replace Affordable Housing Units dated April 18, 2003
- Exhibit G: Resolution No. 5-2012 (Adopted April 10, 2012)
- Exhibit H: E-mail from Moua Brown re ROPS III San Francisco City and County Review, Doc Request dated 09/14/2012
- Exhibit I: E-mail response from Sally Oerth, OCII Deputy Director to Moua Brown re ROPS III San Francisco City and County Review, Doc Request dated 09/25/2012

I hereby certify that the foregoing resolution was adopted by the Commission on Community Investment and Infrastructure at its meeting of October 15, 2013.

  
Commission Secretary



**DRAFT 10.09.13**

## **FINAL AND CONCLUSIVE DETERMINATION REQUEST FORM**

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**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](mailto: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](mailto:Redevelopment_Administration@dof.ca.gov).

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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: ROPS 13-14A (July 2013 to December 2013)

Date of Finance’s Determination/Approval Letter: May 17, 2013

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### **DETAIL OF REQUEST**

Summary of Enforceable Obligation:

- ROPS Line Numbers:
1. Replacement Housing Obligations under Sections 33333.7 and 33333.8 of Cal. Health & Safety Code: 185, 186, 187, 188, 189, 190.
  2. Project-Specific obligations:
    - a) under construction: 160, 173, 227, 236, 245;
    - b) pre-construction: 166, 177, 191, 234, 235.

Project Name: San Francisco’s Replacement Housing Obligation

## Contract/Agreement Execution and Termination Date:

1. Senate Bill No. 2113 (Statutes 2000, chapter 661), codified at Cal. Health & Safety Code § 33333.7, *attached as Exhibit A and available at [http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb\\_2101-2150/sb\\_2113\\_bill\\_20000926\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb_2101-2150/sb_2113_bill_20000926_chaptered.pdf)*, as amended by Senate Bill No. 211, §§ 6 & 7 (Statutes 2001, chapter 741) (“SB 2113” or “Section 33333.7”), *available at [http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb\\_0201-0250/sb\\_211\\_bill\\_20011011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_0201-0250/sb_211_bill_20011011_chaptered.pdf)* (establishing a replacement housing obligation for affordable units destroyed by the San Francisco Redevelopment Agency prior to 1976) (the “Statutory Replacement Housing Obligations”). Termination of the obligations occurs when all of the replacement housing is constructed.
2. (a) San Francisco Ordinance No. 256-09 (Dec. 18, 2009), *attached as Exhibit B and available at <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances09/o0256-09.pdf>* (implementing the Statutory Replacement Housing Obligations under the Yerba Buena Center Redevelopment Plan);
  - (b) San Francisco Ordinance No. 316-08 (Dec. 19, 2008), *attached as Exhibit C and available at <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances08/o0316-08.pdf>* (implementing the Statutory Replacement Housing Obligations under the Western Addition A-2 Redevelopment Plan);
  - (c) San Francisco Ordinance No. 115-07 (May 18, 2007), *attached as Exhibit D and available at <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances07/o0115-07.pdf>* (implementing the Statutory Replacement Housing Obligations under the Rincon Point-South Beach Redevelopment Plan); and
  - (d) San Francisco Ordinance No. 15-05 (Jan. 21, 2005), *attached as Exhibit E and available at <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances05/o0015-05.pdf>* (implementing the Statutory Replacement Housing Obligations under the Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan, the Hunters Point Redevelopment Plan, and the India Basin Redevelopment Plan).

## Payees:

ROPS	
Line	Payee
160	Third & LeConte Associates, LP
166	Bayview Supportive Housing, LLC
173	HV Partners 1, LP
177	Hunters View Associates LP
191	Affordable housing developer to be determined
227	Mercy Housing California XLIV, LP
234-235	Mercy Housing California 51, LP
236	474 Natoma, LLC
185-190	Affordable housing developers to be determined

Funding Source: Redevelopment Property Tax Trust Fund (RPTTF) and existing bond proceeds

Total Outstanding Debt or Obligation:

\$1,520,000,000.00 (based on the remaining number of replacement housing units to be constructed (5842) and the historical per-unit subsidy of approximately \$260,000.00)

Total Due During Fiscal Year (ROPS 13-14 A and 13-14B):

\$4,207,389.00 (consisting of \$1,000,000 of RPTTF for ROPS line 191, \$2,307,389 of RPTTF for ROPS line 177, and \$1,100,000 of RPTTF for line 235)

Six Month Total:

\$1,000,000.00 (Line 191 of ROPS 13-14A)

## SUMMARY OF REQUEST

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

### 1. Introduction

The Community Redevelopment Law obligated redevelopment agencies to replace dwelling units that they destroyed in the course of implementing a redevelopment project if the units were occupied by low- or moderate-income persons. In several redevelopment project areas, the Redevelopment Agency of the City and County of San Francisco ("Former Redevelopment Agency") destroyed thousands of units of housing occupied by lower income persons and never replaced them. The destruction of these units and the statutory obligation to replace them with affordable units existed long before June 28, 2011, the date of the enactment of Redevelopment Dissolution Law.<sup>1</sup>

In 2003, the California Department of Housing and Community Development ("HCD") confirmed "a net loss of 6709 affordable units the [Former Redevelopment] Agency must replace."<sup>2</sup> As will be described below, completion of the 6709 units is, under Redevelopment Dissolution Law, an enforceable obligation that requires an irrevocable commitment and allocation of property tax revenue over time and that has been approved in previous Recognized Obligation Payment Schedules ("ROPS"). It is an obligation that the Successor Agency to the Former Redevelopment Agency has assumed and that the Oversight Board has approved since early in the redevelopment dissolution process<sup>3</sup> and continues to approve through specific expenditures under the ROPS. Notably, the Department of Finance has not objected to these ROPS items. Accordingly, the Statutory Replacement Housing Obligations meet the criteria for a final and conclusive determination of an enforceable obligation under Section 34177.5 (i) of the Health and Safety Code. (All statutory references are to the California Health and Safety Code unless otherwise specified.)

### 2. The Statutory Replacement Housing Obligation.

Starting in the 1950's, the Former Redevelopment Agency received a significant amount of federal urban renewal funds to implement locally-adopted redevelopment plans. In some instances, these redevelopment projects authorized the widespread clearance and relocation of communities, particularly lower income and African-American populations. The displacement caused wide-spread social, economic, cultural, political, and emotional upheaval, which has been extensively documented.<sup>4</sup>

<sup>1</sup> Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26"), as amended by Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12, Regular Session) ("AB 1484") are referred to as "Redevelopment Dissolution Law."

<sup>2</sup> Letter, J. Bornstein, Director, HCD, to M. Rosen, Executive Director, San Francisco Redevelopment Agency (April 18, 2003), attached as Exhibit F.

<sup>3</sup> See Oversight Board Resolution No. 5-2012, Exhibit C, Housing Obligations Summary, at pp. 11-13 (April 10, 2012) attached as Exhibit G and available at <http://sfgsa.org/index.aspx?page=5254>.

<sup>4</sup> C. Hartman, City for Sale: The Transformation of San Francisco, Loc 339 of 7097 (2002) ("Under the rubric of 'slum clearance' and 'blight removal,' the [redevelopment] agency turned to systematically sweeping out the poor, with the full backing of the city's power elite."); Note, Enjoining Urban Renewal—Inadequate Relocation Facilities: Western Addition Community Organization v.

Notably, the vast majority of lost affordable units were from three project areas: Yerba Buena Center (3,217 units), Western Addition A-1 (3,208 units) and Golden Gateway (1,301 units).<sup>5</sup>

Since 1976, the Community Redevelopment Law (“CRL”) has required the replacement of lower income housing that a redevelopment agency destroys or removes from the housing market as part of a redevelopment project. Until 2000, the CRL replacement housing obligation did not apply to San Francisco’s early urban renewal program because the affordable housing had been destroyed prior to 1976. At its core, the replacement housing obligation requires that:

[w]henver dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project . . . the agency shall . . . rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement units that have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs. . . .

Section 33413 (a). This obligation requires, among other things, that: 1) the replacement units “remain available at affordable housing cost to, and occupied by, person and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, but for not less than 55 years for rental units, 45 years for home ownership units,” Section 33413 (c) (1); 2) for dwelling units destroyed prior to September 2, 1989, the affordability levels for the replacement units shall not exceed 120 percent of area median income, Section 33413 (a); and 3) the replacement units must be located anywhere within the territorial jurisdiction of the redevelopment agency. Id.

The replacement housing obligation is an important remedy to redress the destruction of affordable housing. The Legislature has long acknowledged that this remedy supersedes any statutory limitations that would impede the construction of replacement units. The termination of project areas and redevelopment plans does not affect an agency’s obligation to redress the harm caused by the destruction of affordable housing. For example, Assembly Bill No. 1290 (Statutes 1993, Chapter 942) (“AB 1290”)--the landmark redevelopment reform legislation--imposed time limitations on redevelopment plans for the first time, but provided an exception for replacement housing obligations. “The limitations established in the ordinance [implementing AB 1290] shall not be applied to limit allocation of taxes to an agency to the extent required . . . to implement a replacement housing program pursuant to Section 33413.” Statutes 1993, Chapter 942, Section 9 (amending 33333.6 (g))<sup>6</sup>.

### 3. San Francisco’s Unique Replacement Housing Obligation.

In 2000, the California Legislature enacted special legislation acknowledging that the Former Redevelopment Agency had an unfulfilled replacement housing obligation resulting from its destruction of housing that had been occupied by lower income persons. Senate Bill No. 2113, Statutes 2000,

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Weaver, 21 Hastings Law Journal 433 (1970); See generally M. Fullilove, Root Shock: How Tearing Up City Neighborhoods Hurts America, and What We Can Do About It (2004).

<sup>5</sup> Although the total amount of lost units from these three project areas was over 7700 units, the Former Redevelopment Agency produced “excess” affordable housing units in other project areas and thus the net amount of affordable housing that was destroyed and not replaced was 6709 units. See Letter, J. Bornstein, Director, HCD, to M. Rosen, San Francisco Redevelopment Agency (April 18, 2003) (“The information shows 14,207 units were demolished and 7,498 units have been replaced resulting in a net loss of 6,709 affordable the Agency must replace.”) (*attached* as Exhibit F0. One author has described the redevelopment of these three project areas in these terms: “In essence, the idea was to create a *cordon sanitaire* around the renewal project’s central development peripheral construction that would provide an effective physical barrier to deter former residents from moving back into or adjacent to the area. In San Francisco, the notion originally took shape with the Western Addition and Golden Gateway projects. As applied to Yerba Buena Center, “creating a protected environment” obviously meant large-scale demolition and people removal; its served as a code for ridding the area totally and permanently of its poor and “skid-row populations.” C. Hartman, City for Sale: The Transformation of San Francisco, Loc 808 of 7097 (2002).

<sup>6</sup> Available at [http://www.leginfo.ca.gov/pub/93-94/bill/asm/ab\\_1251-1300/ab\\_1290\\_bill\\_931008\\_chaptered](http://www.leginfo.ca.gov/pub/93-94/bill/asm/ab_1251-1300/ab_1290_bill_931008_chaptered).

Chapter 661 § 1 (codified at Health & Safety Code § 33333.7) (“SB 2113”).<sup>7</sup> In adopting SB 2113, the Legislature made the following findings:

It is the intent of the Legislature in enacting this act to enable the Redevelopment Agency of the City and County of San Francisco to redress the demolition of a substantial number of residential dwelling units affordable to very low, low-, and moderate-income households during the agency's earlier urban renewal efforts. San Francisco's housing situation is unique, in that median rents and sales prices are among the highest in the state even though it has consistently exceeded the housing production goals of the Community Redevelopment Law and has used local funds beyond the Low and Moderate Income Housing Fund to assist affordable housing development. San Francisco's early redevelopment activities, including the removal of previously existing dwelling units serving a lower income population, have compounded the effects of the private market that have led to the city's current affordable housing crisis.

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In particular, some of San Francisco's existing redevelopment project areas have fewer housing units affordable to low- and moderate-income households than were in existence prior to the initiation of urban renewal activities. Four of San Francisco's project areas adopted prior to 1970 experienced a combined net loss of approximately 7000 units of housing affordable to low- and moderate-income households since the initiation of redevelopment activities. The Redevelopment Agency of the City and County of San Francisco, due to its unique housing situation and net loss of affordable housing units in [older] project areas, wishes, to the greatest extent feasible, to replace these lost units according to the formulas set forth in Section 33413 of the Health and Safety Code.

Statutes 2000, Chapter 661, § 1 (a) & (b). These legislative findings establish the basis for the “obligation[] imposed by state law.” Section 34171 (d) (1) (C). More importantly, SB 2113 provided the means by which the Former Redevelopment Agency could fulfill this obligation.

SB 2113 applies to redevelopment plans adopted in San Francisco before 1994; it authorized the Former Redevelopment Agency to amend these older redevelopment plans to extend the dates for issuance of tax increment debt until 2014 and extend the dates for repayment of indebtedness until 2044. The legislation also removed the “cap” on the cumulative amount of tax increment that the Former Redevelopment Agency could receive from a project area. After a redevelopment plan is amended pursuant to SB 2113, all subsequent tax increment funds generated in the project area (other than amounts needed to repay previous bond issues, pay for public schools' share of property tax, and make pass-through payments to other taxing entities) must be used solely to finance the replacement housing that is necessary to redress the Agency's destruction of affordable units prior to 1976.<sup>8</sup> The Agency's use of this tax increment must be consistent with the local housing element and HUD Consolidated Plan and must address the unmet housing needs of very low-, low- and moderate-income households, with at least fifty percent of the funds dedicated to addressing the housing needs of very low-income households. Furthermore, the Agency must limit planning and administrative costs to no more than ten percent of the total housing program costs.

Although SB 2113 extended tax increment authority for housing purposes, it protected school funding. Under SB 2113, property tax revenues for schools increased to the higher levels available upon the expiration of a redevelopment plan. The revenues received under SB 2113 do not include “the amount necessary to pay prior outstanding indebtedness” and “the amount of the project area's property tax revenue that school entities are entitled to receive pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation

<sup>7</sup> Attached as Exhibit A and available at [http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb\\_2101-2150/sb\\_2113\\_bill\\_20000926\\_chaptered.html](http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb_2101-2150/sb_2113_bill_20000926_chaptered.html).

<sup>8</sup> HCD has certified the amount of units to be replaced as 6,709 units. Letter, J. Bornstein to M. Rosen (April 18, 2003).

Code if the plan had not been amended.” Section 33333.7 (b).<sup>9</sup> In addition, SB 2113 preserved the pass-through payments to affected taxing entities. *Id.* As a result of these protections for taxing entities, the Legislature concluded “that the Redevelopment Agency of the City and County of San Francisco should be granted a limited continuance of specific tax increment financing powers to achieve its goal of replacing housing units, and that this continuance will have no fiscal impact on the state.” SB 2113, Statutes 2000, Chapter 661, § 1 (e). In essence, fulfillment of San Francisco’s replacement housing obligation would not come at the expense of state funding for schools.

#### 4. The Legislative Priority to Replace Affordable Housing Destroyed Prior to Dissolution.

In 2001, the Legislature clarified that agencies must fulfill all replacement housing obligations irrespective of other limitations on redevelopment activities. Senate Bill No. 211, Statutes 2001, Chapter 741, Section 7 (codified at Section 33333.8) (“SB 211”) required redevelopment agencies to fulfill replacement housing obligations by the deadlines for redevelopment plan effectiveness and the receipt of tax increment. If, however, an agency failed to replace the affordable housing that it had destroyed by these deadlines, SB 211 suspended the redevelopment plan’s termination and any limit on tax increment, required the extension of the redevelopment plan, and restricted the use of additional tax increment for the purpose of satisfying the replacement housing obligations.

A legislative body shall not adopt an ordinance terminating a redevelopment project area if the agency has not complied with subdivision (a) of Section 33413 with respect to replacement housing. . . . ¶ If, on the date of the time limit on the effectiveness of the redevelopment plan, a redevelopment agency has not complied with subdivision (a), the time limit on the effectiveness of the redevelopment plan shall be suspended and the agency shall use all tax increment funds that are not pledged to repay indebtedness to comply with subdivision (a). If, on the date of the time limit on the repayment of indebtedness, the agency has not complied with subdivision (a), the time limit on the repayment of indebtedness shall be suspended and the agency shall receive and use tax increment funds to comply with subdivision (a).

SB 211, § 7.<sup>10</sup> Significantly, the obligation to replace housing survived the expiration of a redevelopment plan’s effectiveness or the expiration of deadlines for the receipt of tax increment. Similarly, the Redevelopment Dissolution Law’s authorization of successor agencies to fulfill “obligations imposed by state law,” Section 34171 (d) (1) (C), allows San Francisco to fulfill its unique replacement housing obligation after redevelopment dissolution.

In 2002, the Legislature further clarified the continuing obligation to provide replacement housing. Senate Bill No. 701, Statutes 2002, Chapter 782 (“SB 701”),<sup>11</sup> amended Section 33333.8 and established that not only limits on the receipt of tax increment, but also limits on the overall amount of tax increment and on incurring debt were suspended for purposes of complying with the replacement housing

<sup>9</sup> The bill analysis for the Senate Local Government Committee stated the SB 2113 would “avoid prolonging the state’s indirect subsidy to San Francisco’s redevelopment agency by prohibiting it from diverting the schools’ share of property tax revenues to its new housing bonds.” Senate Local Government Committee, Analysis of Sen. Bill No. 2113 at page 5 (1999-2000 Reg. Sess.) as amended April 27, 2000, available at [http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb\\_2101-2150/sb\\_2113\\_cfa\\_20000427\\_133627\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb_2101-2150/sb_2113_cfa_20000427_133627_sen_comm.html).

<sup>10</sup> Available at [http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb\\_0201-0250/sb\\_211\\_bill\\_20011011\\_chaptered.html](http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_0201-0250/sb_211_bill_20011011_chaptered.html). The Legislature also made conforming amendments to specific provisions governing a redevelopment plan’s limitations. See e.g., Section 33333.6 (f) (limitations on allocation of taxes do not apply “to any agency to the extent required to comply with [the replacement housing obligation in] Section 33333.8. In the event of a conflict between these limitations and the obligations . . . , the limitations . . . shall be suspended.”) SB 211 also provided judicial remedies that any interested person could seek for an agency’s failure to fulfill its replacement housing obligations. The remedies included “requir[ing] the agency to take all steps necessary to comply with those obligations, including as necessary the adoption of ordinances, to incur debt, to obtain tax increments, to expend tax increments, and to enter into contracts as necessary to meet its housing obligations under this part.” SB 211, § 7. These judicial remedies remain available for violations of the replacement housing obligation that occurred prior redevelopment dissolution.

<sup>11</sup> Available at [http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb\\_0701-0750/sb\\_701\\_bill\\_20020922\\_chaptered.html](http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_0701-0750/sb_701_bill_20020922_chaptered.html)

obligation. The amended language also expressly superseded all other CRL provisions to ensure satisfaction of replacement housing obligations:

Notwithstanding any other provision of law, this section shall apply to each redevelopment agency and each redevelopment project area established or merged pursuant to this part and Part 1.5 (commencing with Section 34000), including project areas authorized pursuant to this chapter and each individual project area that is authorized pursuant to any other provision of law. [¶] The affordable housing obligations specified [above] shall include . . . (E) The obligation to provide replacement housing pursuant to subdivision (a) of Section 33413, Article 9 (commencing with Section 33410), and other similar and related statutes.

Section 33333.8 (a). This language provides the broadest possible authorization for remedying unfulfilled replacement housing obligations, even though statutory and redevelopment plan limitations would otherwise prohibit the use of tax increment funding. SB 701 reaffirmed that redevelopment agencies had a statutory obligation similar to other forms of indebtedness that survive termination: “the agency shall receive and use all tax increment funds that are not pledged to repay indebtedness until the agency has fully complied with its obligations.” Section 33333.8 (b).

Although Redevelopment Dissolution Law repealed most of the CRL affordable housing obligations, the Legislature intended that San Francisco’s replacement housing program, as an enforceable obligation, could continue to provide a remedy for the pre-dissolution harm caused by the massive destruction of affordable housing. SB 2113 establishes a unique “obligation[] imposed by state law” that the Successor Agency has assumed and the Oversight Board has approved. Section 34171 (d) (1) (C). Redevelopment Dissolution Law did not repeal this pre-dissolution housing obligation, but provides a narrow exception for its fulfillment and thus authorizes the funding of affordable replacement housing in one of the most expensive housing markets in the country.<sup>12</sup>

- 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](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 obligation 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, the Statutory Replacement Housing Obligations require the Agency to construct and fund with property tax revenue approximately 6709 units of affordable housing (of which 867 have been completed or are under construction). Second, the scope of the enforceable obligation requires the allocation of property tax revenues over time as the revenues are generated in six project areas subject to the Statutory Replacement Housing Obligations. Third, DOF has approved the ROPS I, II, III, and 2013-14A, each of which listed the Statutory Replacement Housing Obligations and specific projects relying on funding authorized under that obligation.

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

SB 2113, enacted in 2000 and codified in Section 33333.7, acknowledges that the Former Redevelopment Agency had an unfulfilled replacement housing obligation of “approximately 7000 units,” subject to verification by the California Department of Housing and Community Development. Statutes 2000, Chapter 661 § 1 (b). SB 2113 authorized San Francisco to commit irrevocably property tax revenue from certain San Francisco project areas to fulfill the Former Redevelopment Agency’s obligation. SB 2113 became operative when 1) HCD

<sup>12</sup> See generally *San Francisco Housing Element, Part I: Data Needs and Analysis* (March 2011), *available at* [http://www.sf-planning.org/ftp/General\\_Plan/Housing\\_Element\\_Part\\_I\\_Data\\_Needs\\_Assmt\\_CPC\\_Adopted.pdf](http://www.sf-planning.org/ftp/General_Plan/Housing_Element_Part_I_Data_Needs_Assmt_CPC_Adopted.pdf)

certified in 2003 “a net loss of 6709 affordable units the [Former Redevelopment ] Agency must replace;”<sup>13</sup> and 2) the Board of Supervisors of the City and County of San Francisco (“Board of Supervisors”) adopted a series of ordinances amending certain redevelopment plans to issue debt and receive tax increment for funding of the replacement housing. All of these ordinances implementing SB 2113 were adopted prior to Redevelopment Dissolution Law. Ordinance No. 15-05 (Jan. 21, 2005) (amending the Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan, the Hunters Point Redevelopment Plan, and the India Basin Redevelopment Plan); Ordinance No. 115-07 (May 18, 2007) (amending the Rincon Point-South Beach Redevelopment Plan)<sup>14</sup>; Ordinance No. 316-08 (Dec. 19, 2008) (amending the Western Addition A-2 Redevelopment Plan); Ordinance No. 256-09 (Dec. 18, 2009) (amending the Yerba Buena Center Redevelopment Plan).

## **2. Allocation of Property Tax Revenues over time.**

The Statutory Replacement Housing Obligations require the production of 6709 units of affordable housing. SB 2113 authorizes the Successor Agency to receive property tax revenue until January 1, 2044 to repay indebtedness related to the unfulfilled housing obligation. On several occasions, the Former Redevelopment Agency issued tax allocation bonds, which provided funding for the pre-development and construction of 867 units of replacement housing. See ROPS 13-14A, line 291 (Tax Allocation Bond (“TAB”) Series 2005C); line 297 (TAB Series 2006A); line 303 (TAB 2007A); line 309 (TAB Series 2009A); line 321 (TAB Series 2009E); and line 327 (TAB Series 2010A). The Successor Agency has a remaining obligation to replace 5,842 units, which will require the Successor Agency to enter into new contracts with affordable housing developers and to expend property tax revenues. The only feasible method of funding the construction of these units is to allocate property tax revenues as they are generated over time.

## **3. DOF’s previous approval of ROPS listing the enforceable obligations.**

The Successor Agency has listed the Statutory Replacement Housing Obligations and the Project-Specific Obligations on all five ROPS that the Successor Agency has submitted to DOF. In ROPS I, the Statutory Replacement Housing Obligations are listed on lines CH-16 to CH-21 at page 4 of Exhibit A-2, Housing, available at <http://sfgsa.org/index.aspx?page=5269>. In approving ROPS I, the Oversight Board not only approved the Statutory Replacement Housing Obligations but also made findings supporting the Statutory Replacement Housing Obligations. See Resolution No. 5-2012 at pp. 5-6 (April 10, 2012), attached as Exhibit G and available at <http://sfgsa.org/index.aspx?page=5254>. (finding that the Successor Agency had assumed the “the former SFRA’s enforceable obligations . . . [to] develop approximately 6700 affordable housing units . . . to replace affordable housing units that the SFRA previously destroyed and did not replace as part of an obligation imposed by state law under Sections 33413 (a), 33333.8 and 33333.7 of the California Health and Safety Codes.”) In ROPS II, these obligations are also listed on lines CH-16 to CH-21 at page 4 of Exhibit A-2, Housing. *Id.* In ROPS III, the obligations are listed on lines 140 to 145 at page 16 of Exhibit A-3. *Id.* In ROPS 13-14A, the obligations are listed on lines 185 to 190 at page 8 of Exhibit A-3. *Id.* In the recently-submitted ROPS 13-14B, the obligations again appear on lines 185 to 190 at page 10 of Exhibit A-3, available under Attachment 3 at <http://sfgsa.org/index.aspx?page=6274>. In reviewing and approving the Successor Agency ROPS, DOF has not objected to the above-referenced line items for the Statutory Replacement Housing Obligations.

Several Project-specific Obligations and their expenditures have also appeared on the various ROPS that DOF has approved. In most cases, these enforceable obligations have used bond proceeds that the Former Redevelopment Agency had received under the authority of SB 2113. For example, lines 234 and 235 at page 10 of ROPS 13-14A list \$1,200,000 in expenditures that are SB 2113 bond

<sup>13</sup> Letter, J. Bornstein, Director, HCD, to M. Rosen, Executive Director, San Francisco Redevelopment Agency (April 18, 2003).

<sup>14</sup> Technically, the Rincon Point-South Beach Redevelopment Plan remains in effect until 2021, but its limits on tax increment authority had been reached by 2007 when the Board of Supervisors amended it to provide financing for replacement housing.

proceeds; other payees that are listed at the beginning of this Request have also received SB 2113 bond proceeds under recently-approved ROPS.

In the last year, however, the Successor Agency has requested RPTTF for a new replacement housing project, the completion of which would count toward the fulfillment of the obligation. Line 146 at page 17 of ROPS III listed an expenditure of \$1 million in RPTTF for the "Central Freeway Parcel O Predevelopment & Construction Funding." In reviewing ROPS III, DOF requested additional documentation to support the expenditure. E-mail from Brown Moua, Financial and Performance Evaluator I, DOF to Tiffany Bohee, Executive Director, Successor Agency (Sep. 14, 2012, 11:32 PM), *attached* as Exhibit H. In response, the Successor Agency provided a detailed description of the Statutory Replacement Housing Obligation. E-mail from Sally Oerth, Deputy Director, Successor Agency, to Brown Moua, Financial and Performance Evaluator I, DOF (Sep. 25, 2012, 5:12 PM) (see response to (8) Item 146 at pp. 2-4), *attached* as Exhibit I. Subsequently, DOF approved the ROPS with the expenditure on Line 146. Letter, S. Szalay, Local Government Consultant, DOF, to T. Bohee, Executive Director, Successor Agency (Dec. 14, 2012).

**Conclusion.**

Based on the foregoing, the Successor Agency requests that, pursuant to California Health and Safety Code Section 34177.5(i), the Department of Finance make a final and conclusive determination that the Statutory Replacement Housing Obligations are enforceable obligations, that they require the allocation of property tax revenues and that they are not subject to further review by the Department of Finance except to confirm that future payments, including payments for new projects on a future ROPS, are required by the Statutory Replacement Housing Obligations.

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**Agency Contact Information**

Name:	Name:
Title:	Title:
Phone:	Phone:
Email:	Email:
Date:	Date:

**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: \_\_\_\_\_

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**Senate Bill No. 2113**

## CHAPTER 661

An act to add Section 33333.7 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

## LEGISLATIVE COUNSEL'S DIGEST

SB 2113, Burton. Redevelopment plans: San Francisco.

The Community Redevelopment Law prescribes time limits on the effectiveness of, and the establishing and payment of debt and the receipt of property taxes pursuant to, redevelopment plans adopted on or before December 31, 1993, and authorizes a 10-year extension of those time limits, as specified. The Community Redevelopment Law also imposes specified requirements relating to replacement of low- or moderate-income housing units that are removed or destroyed.

This bill would authorize the Redevelopment Agency of the City and County of San Francisco, subject to the approval of the board of supervisors of that city and county, to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities until January 1, 2014, or until the agency replaces all of the housing units demolished prior to the enactment of the replacement housing obligations, whichever occurs earlier, and to receive tax increment revenues to repay indebtedness incurred for those activities until no later than January 1, 2044, as specified. The bill would prohibit the agency from incurring that indebtedness until the Director of Housing and Community Development certifies the net difference between those housing units destroyed prior to January 1, 1976, and those rehabilitated, developed, or constructed, prior to that date.

*The people of the State of California do enact as follows:*

SECTION 1. (a) It is the intent of the Legislature in enacting this act to enable the Redevelopment Agency of the City and County of San Francisco to redress the demolition of a substantial number of residential dwelling units affordable to very low, low-, and moderate-income households during the agency's earlier urban renewal efforts. San Francisco's housing situation is unique, in that median rents and sales prices are among the highest in the state even though it has consistently exceeded the housing production goals of the Community Redevelopment Law and has used local funds beyond the Low and Moderate Income Housing Fund to assist



affordable housing development. San Francisco's early redevelopment activities, including the removal of previously existing dwelling units serving a lower income population, have compounded the effects of the private market that have led to the city's current affordable housing crisis.

(b) The Legislature finds and declares that prior to the enactment of the replacement housing obligations in Section 33413 of the Health and Safety Code (Chapter 970, Statutes of 1975), agencies destroyed or removed dwelling units housing persons and families of low or moderate income without replacing those units. In particular, some of San Francisco's existing redevelopment project areas have fewer housing units affordable to low- and moderate-income households than were in existence prior to the initiation of urban renewal activities. Four of San Francisco's project areas adopted prior to 1970 experienced a combined net loss of approximately 7,000 units of housing affordable to low- and moderate-income households since the initiation of redevelopment activities. The Redevelopment Agency of the City and County of San Francisco, due to its unique housing situation and net loss of affordable housing units in these project areas, wishes, to the greatest extent feasible, to replace these lost units according to the formulas set forth in Section 33413 of the Health and Safety Code.

(c) The Legislature further finds and declares that allowing the Redevelopment Agency of the City and County of San Francisco to replace units destroyed or removed prior to the enactment of the replacement housing obligations in 1975 is consistent with a fundamental purpose of the Community Redevelopment Law identified in subdivision (a) of Section 33334.6 of the Health and Safety Code, namely the provision of affordable housing.

(d) The Legislature further finds and declares that the time limits for incurring indebtedness in Section 33333.6 of the Health and Safety Code impede the efforts of the Redevelopment Agency of the City and County of San Francisco to replace affordable housing units destroyed or removed prior to the enactment of the replacement housing obligations in 1975.

(e) The Legislature further finds and declares that the Redevelopment Agency of the City and County of San Francisco should be granted a limited continuance of specific tax increment financing powers to achieve its goal of replacing housing units, and that this continuance will have no fiscal impact on the state.

(f) This limited continuance in no way affords the Redevelopment Agency of the City and County of San Francisco an extension of any of its powers, above and beyond tax increment financing and the collection of tax increment to repay indebtedness exclusively to support Low and Moderate Housing Fund activities, nor does it signify the extension or expansion of the redevelopment plans or



activities to which paragraph (1) of subdivision (a) of Section 33333.6 of the Health and Safety Code applies.

SEC. 2. Section 33333.7 is added to the Health and Safety Code, to read:

33333.7. (a) Notwithstanding the time limits in paragraph (1) of subdivision (a) of Section 33333.6, the Redevelopment Agency of the City and County of San Francisco may, subject to the approval of the Board of Supervisors of the City and County of San Francisco, retain its ability to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities eligible under Sections 33334.2 and 33334.3 until January 1, 2014, or until the agency replaces all of the housing units demolished prior to the enactment of the replacement housing obligations in Chapter 970 of the Statutes of 1975, whichever occurs earlier. The ability of the agency to receive tax increment revenues to repay indebtedness incurred for these Low and Moderate Income Housing Fund activities may be extended until no later than January 1, 2044. Nothing in this paragraph shall be construed to extend a plan's effectiveness, except to incur additional indebtedness for Low and Moderate Income Housing Fund activities, to pay previously incurred indebtedness, and to enforce existing covenants, contracts, or other obligations.

(b) Annual revenues shall not exceed the amount necessary to fund the Low and Moderate Income Housing Fund activities of the agency. The agency shall neither collect nor spend more than 10 percent for the planning and administrative costs authorized pursuant to subdivision (e) of Section 33334.3. Revenues received under this paragraph shall not exceed the amount of tax increment received and allocated to the agency pursuant to the plan, as it has been amended, less the amount necessary to pay prior outstanding indebtedness, and less the amount of the project area's property tax revenue that school entities are entitled to receive pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code if the plan had not been amended. Additionally, revenues collected under this paragraph are subject to the payments to affected taxing entities pursuant to Section 33607.

(c) The activities conducted with revenues received under this paragraph shall be consistent with the policies and objectives of the community's housing element, as reviewed and approved by the department, and shall address the unmet housing needs of very low, low- and moderate-income households. The activities shall also be consistent with the community's most recently approved consolidated and annual action plans submitted to the United States Department of Housing and Urban Development, and if the director deems it necessary, the annual action plans shall be submitted to the department on an annual basis. No less than 50 percent of the



revenues received shall be devoted to assisting in the development of housing that is affordable to very low income households.

(d) The agency shall not incur any indebtedness pursuant to this paragraph until the director certifies, after consulting with the agency, the net difference between the number of housing units affordable to persons and families of low and moderate income that the agency destroyed or removed prior to January 1, 1976, and the number of housing units affordable to persons and families of low and moderate income that the agency rehabilitated, developed, or constructed, or caused to be rehabilitated, developed, or constructed within the project areas adopted prior to January 1, 1976.

(e) The agency shall not incur any indebtedness pursuant to this paragraph unless the director of the department certifies annually, prior to the creation of indebtedness, all of the following:

(1) The community has a current housing element that substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) The community's housing element indicates an unmet need for Low and Moderate Income Housing Fund activities.

(3) The agency's most recent independent financial audit report prepared pursuant to Section 33080.1 reports acceptable findings and no major violations of this part.

(4) The agency has complied with subdivision (a) of Section 33334.2.

(5) The agency has met the requirements of this part with respect to the provision of dwelling units for persons and families of low or moderate income, including, but not limited to, the requirements of Section 33413.



256-09

FILE NO. 091207

ORDINANCE NO.

1 [Approving Amendments to the Yerba Buena Center Redevelopment Plan to Extend the  
2 Plan's Effectiveness, to extend the Redevelopment Agency's Time for Issuing and Repaying  
3 Debt and to Suspend the Limit on Total Tax Increment Revenue for Affordable Housing  
4 Development.]

5 **Ordinance approving amendments to the Yerba Buena Center Redevelopment Plan to**  
6 **extend by one year the time limit on the effectiveness of the plan (other than the**  
7 **Emporium Site) and, upon expiration of the Plan, to extend both the time for issuance**  
8 **of debt and the receipt of tax increment by the San Francisco Redevelopment Agency**  
9 **and to suspend the limit on the total number of dollars of tax increment revenue that**  
10 **may be received by the San Francisco Redevelopment Agency under the Plan to**  
11 **continue financing Low and Moderate Income Housing Fund activities under the Plan.**

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

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

15 Section 1. FINDINGS FOR PLAN EXTENSION. The Board of Supervisors of the City  
16 and County of San Francisco hereby finds and declare as follows:

17 a. The Board of Supervisors of the City and County of San Francisco ("Board of  
18 Supervisors"), as the legislative body of the Redevelopment Agency of the City and County of  
19 San Francisco ("Redevelopment Agency"), originally approved the Redevelopment Plan for  
20 the Yerba Buena Center Redevelopment Project by adopting Ordinance No. 98-66 on  
21 April 25, ~~1996~~1966. Since then, the Board of Supervisors has amended the Yerba Buena  
22 Center Redevelopment Plan twelve times, most recently by: (1) the adoption of Ordinance  
23 No. 236-00, adding the Emporium Site Area, adopted by the Board of Supervisors on  
24 October 10, 2000 and approved by the Mayor on October 13, 2000, (2) the adoption of  
25 Ordinance No. 211-03, extending the time limit for the establishment of loans, advances, and

Supervisor Daly  
BOARD OF SUPERVISORS

1 indebtedness to the date of Plan expiration, adopted by the Board of Supervisors on  
2 August 12, 2003 and approved by the Mayor on August 22, 2003, and (3) the adoption of  
3 Ordinance No. 1-05, extending the effectiveness of the Plan by one year as to all portions of  
4 the Yerba Buena Redevelopment Plan Area other than the Emporium Site Area (the "Original  
5 Plan Area"), adopted by the Board of Supervisors on January 4, 2005 and approved by the  
6 Mayor on January 8, 2005. All references herein to the "Plan" shall mean the Yerba Buena  
7 Center Redevelopment Plan, as amended. The Plan contains several limitations on the use  
8 of property taxes received pursuant to California Health and Safety Code Section 33670  
9 previously imposed by the Community Redevelopment Law, California Health and Safety  
10 Code Sections 33000 et seq. (All future section references are to the California Health and  
11 Safety Code unless otherwise noted.)

12         b.       The Plan presently expires as to the Original Plan Area on January 1, 2010,  
13 after which time the Redevelopment Agency has no authority to act with regard to the Original  
14 Plan Area pursuant to the Plan except to pay previously incurred indebtedness, to comply with  
15 its housing obligations and to enforce existing covenants, contracts or other obligations. (The  
16 Emporium Site Area will remain subject to the Plan for thirty years from the adoption date of  
17 Ordinance No. 236-00.)

18         c.       The Plan imposes a \$600 million limit on the total amount of tax increment  
19 revenue that the Redevelopment Agency may receive with regard to the Original Plan Area  
20 cumulatively over the life of the Plan for redevelopment activities. The total amount of tax  
21 increment revenue received or projected to be received by the Redevelopment Agency with  
22 regard to the Original Plan Area over the life of the Plan is over \$516,647,829.

23         d.       Under Section 33333.6(b), a redevelopment agency may not pay indebtedness  
24 or receive property taxes after the date that is ten years following the termination of any  
25 redevelopment plan initially adopted before 1994. In accordance with Section 33333.6(b), the

1 Plan currently prohibits the Redevelopment Agency from repaying any debt incurred for the  
2 Plan with regard to the Original Plan Area after January 1, 2020.

3 e. On July 24, 2009, the California Legislature enacted, in a special legislative  
4 session, Assembly Bill No. 26 (Statutes 2009, Chapter 21), which added Sections 33690 and  
5 33690.5 and requires the Redevelopment Agency to make a payment estimated to be \$28.7  
6 million in fiscal year 2009-10 and \$5.9 million in fiscal year 2010-11 for deposit into the  
7 Educational Revenue Augmentation Fund of the City and County of San Francisco (the  
8 "ERAF"). As a statute enacted at a special session of the California Legislature, Assembly Bill  
9 No. 26 is effective on October 23, 2009, the 91st day after adjournment of the special session.  
10 Cal. Constitution, Art. 4, Section 8 (c). Under Assembly Bill No. 26, the California Director of  
11 Finance shall notify the Redevelopment Agency of the exact amount due in fiscal year 2009-  
12 10 by November 15, 2009 and the amount due in fiscal year 2010-11 by November 15, 2010.  
13 Upon the effective date of Assembly Bill No. 26, the Redevelopment Agency is required to  
14 remit the amount due in fiscal year 2009-10 to the ERAF by May 10, 2010.

15 f. Assembly Bill No. 26 also added Section 33331.5 to provide that when a  
16 redevelopment agency is required to make an ERAF payment pursuant to Section 33690 and  
17 the agency has allocated the full amount of the payment, the legislative body may amend a  
18 redevelopment plan adopted before 1994 to extend by one year the time limit on the  
19 effectiveness of the plan (an "ERAF Extension"). Section 33331.5 also provides that when an  
20 ERAF Extension is adopted, neither the legislative body nor the redevelopment agency is  
21 required to comply with the process for plan amendments otherwise required by the  
22 Community Redevelopment Law, including but not limited to the requirement to make the  
23 payment to affected taxing entities required by Section 33607.7.

24 g. Under Section 33333.6 (b), an ERAF Extension also has the effect of extending  
25 by one year the time limit under a plan to receive property taxes and repay indebtedness.

1 h. The Redevelopment Agency has allocated the full ERAF payment of \$28.7  
2 million for fiscal year 2009-10 by amending its budget for fiscal year 2009-10, under Agency  
3 Resolution No. 108-2009, a certified copy of which is on file with the Clerk of the Board of  
4 Supervisors in File No. 091207. The Board of Supervisors, by Resolution  
5 No. 473-09, has approved the amendment to the Agency's budget which provides  
6 for the allocation of the funds to ERAF. Accordingly, the Plan (with regard to the Original Plan  
7 Area) qualifies for an ERAF Extension through January 1, 2011. A portion of the allocated  
8 amount is tax increment revenue generated under the Plan.

9 i. A lawsuit challenging the validity of Assembly Bill No. 26 has been filed by the  
10 California Redevelopment Association on the grounds that the 2009-2010 ERAF payment  
11 obligation violates Article XVI, Section 16 of the California Constitution because it is not  
12 sufficiently related to redevelopment purposes. If a court invalidates the 2009-10 ERAF  
13 payment obligation imposed by Assembly Bill No. 26, it may also invalidate any ERAF  
14 Extension which is based on an agency's allocation of funds for the ERAF payment. Any  
15 such invalidation of Assembly Bill No. 26 could occur before January 1, 2011, the expiration  
16 date of the Plan with respect to the Original Plan Area as extended under this Ordinance. Any  
17 such invalidation, however, shall not affect the Affordable Housing Plan Amendment as set  
18 forth in Section 2 below.

19 SECTION 2. FURTHER FINDINGS FOR THE EXTENSION OF TAX INCREMENT  
20 AUTHORITY FOR AFFORDABLE HOUSING ACTIVITIES. The Board of Supervisors hereby  
21 further finds as follows:

22 a. Upon expiration of the Plan with regard to the Original Plan Area (as extended  
23 by the ERAF Extension approved in this Ordinance), the Plan will expire with regard to the  
24 Original Plan Area and the Redevelopment Agency shall have no authority to act under  
25 Section 33333.6 (a) except to pay previously incurred indebtedness, to comply with certain

1 housing obligations (Section 33333.8), and to enforce existing covenants, contracts, or other  
2 obligations. Furthermore, Section 33333.4 provides that the Redevelopment Agency shall not  
3 have the authority to establish or incur loans, advances, or indebtedness to be repaid from the  
4 allocation of tax increment after Plan expiration "except as necessary to comply with  
5 subdivision (a) of Section 33333.8."

6 b. To avoid the effects of expiration of the Plan with regard to the Original Plan  
7 Area on the ability of the Redevelopment Agency to fulfill its affordable housing obligations,  
8 this Ordinance also approves a Plan amendment extending the time for issuance of debt and  
9 the receipt of tax increment under the Plan with respect to the Original Plan Area and also  
10 suspending the limit on the total number of dollars of tax increment revenue that may be  
11 received by the Agency under the Plan with respect to the Original Plan Area to continue  
12 financing Low and Moderate Income Housing Fund activities (the "Affordable Housing Plan  
13 Amendment"). The Affordable Housing Plan Amendment will become effective upon  
14 expiration or termination of the ERAF Extension, whether that expiration or termination occurs  
15 on January 1, 2011 or by court order at an earlier date.

16 c. 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 d. 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 urban renewal efforts [prior to 1976]." (Statutes 2000, Chapter 661 § 1(a)). The California

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

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

9 f. The California Department of Housing and Community Development has  
10 determined that, prior to 1976, the Redevelopment Agency demolished 14,207 units and  
11 replaced 7,498 units, resulting in a net loss of 6,709 affordable units ("Agency's Housing  
12 Obligation"). To date, the Redevelopment Agency has not replaced these lost units, but has  
13 committed funding for the construction of approximately 875 replacement units that are in the  
14 predevelopment phase.

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

22 h. In 2001, the California Legislature revised the Health and Safety Code to add  
23 Section 33333.8 and Section 33333.6(f). Under Section 33333.8, a local legislative body  
24 must suspend any time limit in a redevelopment plan for the receipt of tax increment revenue  
25 and the repayment of debt, and any limit on the total amount of tax increment funds that a

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 i. 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 j. 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 Redevelopment Agency has  
19 satisfied the Agency's Housing Obligation, if earlier); 2) if the Redevelopment Agency has not  
20 fulfilled the Agency's Housing Obligation by January 1, 2014, to continue incurring  
21 indebtedness for the exclusive purpose of fulfilling the Agency's Housing Obligation until the  
22 date the Redevelopment Agency has satisfied the Agency's Housing Obligation; and 3) to  
23 permit the Redevelopment Agency to receive additional tax increment revenue from the  
24 Original Plan Area for use in fulfilling the Agency's Housing Obligation until January 1, 2044 or  
25

1 later if the Redevelopment Agency must incur indebtedness after January 1, 2014 to fulfill the  
2 Agency's Housing Obligation, subject only to the payment of funds to repay indebtedness.

3 k. The Board of Supervisors previously approved the following ordinances  
4 extending the Redevelopment Agency's tax increment authority for the exclusive purpose of  
5 financing Low and Moderate Income Housing Fund and fulfilling the Redevelopment Agency's  
6 Housing Obligation: 1) in Ordinance No. 15-05, extending time limits for establishment of  
7 loans, advance, and indebtedness applicable to the Embarcadero-Lower Market (Golden  
8 Gateway) Redevelopment Plan, the Hunters Point Redevelopment Plan, and the India Basin  
9 Redevelopment Plan; 2) in Ordinances Nos. 115-07 and 201-07, extending time limits for the  
10 Redevelopment Agency's receipt of tax increment and suspending both the limit of total  
11 indebtedness outstanding at any one time and the limit on the total number of dollars of tax  
12 increment revenue that the Redevelopment Agency may receive under the Rincon Point-  
13 South Beach Redevelopment Plan; and 3) in Ordinance No. 316-08, approving an extension  
14 of time limits for issuing and repaying debt and a suspension of the limits on the total tax  
15 increment that the Redevelopment Agency may receive under the Western Addition A-2  
16 Redevelopment Plan.

17 l. To date, the Redevelopment Agency has made all payments to taxing entities  
18 required under Section 33607.5.

19 m. At a public hearing on Tuesday, October 6, 2009, the Redevelopment Agency  
20 adopted Agency Resolution No. 109-2009, a certified copy of which is on file with the Clerk of  
21 the Board of Supervisors in File No. 091207. The resolution recommends that the  
22 Board of Supervisors: 1) pursuant to Section 33331.5, extend by one year the effective date  
23 of the Plan with respect to the Original Plan Area, and 2) pursuant to Sections 33333.8 and  
24 33333.7 and prior to the expiration of the Plan with respect to the Original Plan Area, extend  
25 the time for issuance of debt and the receipt of tax increment under the Plan and also

1 suspend the limit on the total number of dollars of tax increment revenue that may be received  
2 by the Redevelopment Agency with respect to the Original Plan Area for the sole purpose of  
3 financing Low and Moderate Income Housing Fund activities.

4 n. This Ordinance shall not be effective until the Redevelopment Agency shall have  
5 adopted a policy requiring that it use, to the greatest extent feasible, any tax increment  
6 revenue authorized by the Affordable Housing Plan Amendment to fulfill the Agency's Housing  
7 Obligation by assisting Affordable Housing in the South of Market area.

8 o. The Board of Supervisors shall consider, in deciding whether to approve the  
9 Redevelopment Agency's annual budget pursuant to Section 33606 of the California Health  
10 and Safety Code, whether the Redevelopment Agency's work program includes, to the  
11 greatest extent feasible, the use of tax increment revenue authorized by the Affordable  
12 Housing Plan Amendment to fulfill the Agency's Housing Obligation by assisting Affordable  
13 Housing in the South of Market area.

14 p. This Ordinance is exempt from the California Environmental Quality Act  
15 (California Public Resources Code Sections 21000 et seq. and hereafter referred to as  
16 "CEQA") because it creates a government funding mechanism that does not involve any  
17 commitment to any specific project which may result in a potentially significant physical impact  
18 on the environment and therefore is not a "project" under Sections 15378(b)(4) and  
19 15060(c)(3) of the State CEQA Guidelines.

20 Section 3. Pursuant to Sections 33331.5, 33333.8, 33333.7, and 33333.6(e)(4)(B), the  
21 Board of Supervisors of the City and County of San Francisco hereby approves the  
22 Redevelopment Plan Amendment filed with the Clerk of the Board of Supervisors in  
23 File No. 091207 (the "Redevelopment Plan Amendment"). The Redevelopment  
24 Plan Amendment will (i) initially extend the effective date of the Yerba Buena Center  
25 Redevelopment Plan by one year with regard to the Original Plan Area; and (ii) subsequently,

1 upon Plan expiration with regard to the Original Plan Area, (A) extend the time limit for the  
2 establishment of indebtedness to be paid with the proceeds of property taxes with regard to  
3 the Original Plan Area for the exclusive purpose of enabling the Redevelopment Agency to  
4 fulfill the Agency's Housing Obligations under Sections 33333.8(a) and 33333.7(d);  
5 (B) extend the time limit for the receipt of tax increment revenue with regard to the Original  
6 Plan Area to repay indebtedness for the exclusive purpose of enabling the Redevelopment  
7 Agency to fulfill the Agency's Housing Obligation under Sections 33333.8(a) and 33333.7(d);  
8 and (C) suspend, for the exclusive purpose of fulfilling the Agency's Housing Obligation the  
9 \$600,000,000 limit on the amount of tax increment funds that the Redevelopment Agency may  
10 receive with regard to the Original Plan Area.

11 Section 4. Nothing in this Ordinance shall be construed to: 1) extend the effectiveness  
12 of the Plan with regard to the Original Plan Area beyond January 1, 2011; 2) limit the  
13 Redevelopment Agency's ability to refund, in whole or in part, any indebtedness incurred by  
14 the Redevelopment Agency for any purpose so long as the refunding achieves debt service  
15 savings, or 3) authorize the Redevelopment Agency to incur any indebtedness not previously  
16 approved by the Board of Supervisors.

17 Section 5. The Clerk of the Board of Supervisors shall without delay (1) transmit a  
18 copy of this Ordinance to the Redevelopment Agency, (2) record or ensure that the  
19 Redevelopment Agency records a certified copy of this Ordinance, and (3) transmit, by  
20 certified mail, return receipt requested, a copy of this Ordinance, together with a copy of the  
21 Redevelopment Plan Amendment and a legal description of the Yerba Buena Center  
22 Redevelopment Project Area and a map indicating the boundaries of the Yerba Buena Center  
23 Redevelopment Project Area, to the Controller, the Tax Assessor, the State Board of  
24 Equalization and the governing body of all taxing agencies in the Yerba Buena Center.  
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APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By: Anita L. Wood  
Anita L. Wood, Deputy City Attorney



City and County of San Francisco  
Tails  
Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 091207

Date Passed: December 08, 2009

Ordinance approving amendments to the Yerba Buena Center Redevelopment Plan to extend by one year the time limit on the effectiveness of the plan (other than the Emporium Site) and, upon expiration of the Plan, to extend both the time for issuance of debt and the receipt of tax increment by the San Francisco Redevelopment Agency and to suspend the limit on the total number of dollars of tax increment revenue that may be received by the San Francisco Redevelopment Agency under the Plan to continue financing Low and Moderate Income Housing Fund activities under the Plan.

November 24, 2009 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

December 08, 2009 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 091207

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/8/2009 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

18 December, 2009

Date Approved

Mayor Gavin Newsom

Amendment of the Whole  
In Board 12/9/08

FILE NO. 081283

ORDINANCE NO. 316-08

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 ~~striketrough italics Times New Roman~~.  
12 Board amendment additions are double underlined.  
13 Board amendment deletions are ~~striketrough normal~~.

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

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

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

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 081283

**Date Passed:**

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

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November 25, 2008 Board of Supervisors — CONTINUED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell,  
McGoldrick, Mirkarimi, Peskin, Sandoval

December 9, 2008 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE  
BEARING SAME TITLE

Ayes: 11 - Alioto-Pier, Campos, Chu, Daly, Dufty, Elsbernd, Maxwell,  
McGoldrick, Mirkarimi, Peskin, Sandoval

December 9, 2008 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 11 - Alioto-Pier, Campos, Chu, Daly, Dufty, Elsbernd, Maxwell,  
McGoldrick, Mirkarimi, Peskin, Sandoval

December 16, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Campos, Chu, Daly, Dufty, Elsbernd, Maxwell,  
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 081283

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on December 16, 2008 by the Board of Supervisors of the City and County of San Francisco.

12/19/2008

Date Approved



Angela Calvillo  
Clerk of the Board

  
Mayor Gavin Newsom

115-07

FILE NO. 070335

ORDINANCE NO.

1 [Approving an Amendment to the Rincon Point-South Beach Redevelopment Plan to Extend  
2 the Redevelopment Agency's Time for Repaying Debt and to Suspend the Limit on Total  
3 Indebtedness and Tax Increment Revenue for Affordable Housing Development.]

4 **Ordinance approving an amendment to the Rincon Point-South Beach Redevelopment**  
5 **Plan to extend the time for the San Francisco Redevelopment Agency's receipt of tax**  
6 **increment and to suspend both the limit on the total indebtedness outstanding at any**  
7 **one time and the limit on the total number of dollars of tax increment revenue that may**  
8 **be received by the San Francisco Redevelopment Agency under the Plan in order to**  
9 **continue financing Low and 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~~.

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

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

17 a. The Board of Supervisors originally approved the Rincon Point-South Beach  
18 Redevelopment Plan by adopting Ordinance No. 14-91 on January 5, 1981. Since then, the  
19 Board of Supervisors has amended the plan nine times. (The plan, as so amended, is  
20 referred to herein as the "Plan".) The Plan contains several limitations on the use of property  
21 taxes received pursuant to California Health and Safety Code Section 33670 previously  
22 imposed by the Community Redevelopment Law, California Health and Safety Code  
23 Sections 33000 et seq. (All future section references are to the California Health and Safety  
24 Code unless otherwise noted.) The Plan presently (i) prohibits the Redevelopment Agency of  
25 the City and County of San Francisco (the "Redevelopment Agency") from incurring new debt  
after January 5, 2021, the date on which the Plan terminates, (ii) prohibits the Redevelopment

1 Agency from repaying any debt incurred for the Plan after January 5, 2031, (iii) imposes a  
2 \$100,000,000 limit on the amount of debt that can be outstanding at any one time from the  
3 issuance of bonds to be repaid in whole or in part from the allocation of tax increment  
4 revenue, and (iv) imposes a \$230,000,000 limit on the total amount of tax increment revenue  
5 that the Redevelopment Agency may receive cumulatively over the life of the Plan for  
6 redevelopment activities.

7 b. The current amount of outstanding indebtedness under the Plan is  
8 approximately \$88,000,000 and the total amount of tax increment revenue to be received by  
9 the Redevelopment Agency over the life of the Plan is over \$229,000,000; thus the limits on  
10 the Redevelopment Agency's bonded indebtedness and tax increment revenue for the Plan  
11 have either been reached or substantially reached.

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

16 d. In 2000, the California Legislature added Section 33333.7, which authorized the  
17 Redevelopment Agency, with the Board of Supervisors' approval, to extend its tax increment  
18 revenue financing powers "to redress the demolition of a substantial number of residential  
19 dwelling units affordable to very low, low, and moderate income households during the  
20 agency's earlier urban renewal efforts [prior to 1976]." (Statutes 2000, Chapter 661 § 1(a)).  
21 The Legislature found that the "Redevelopment Agency of the City and County of  
22 San Francisco, due to its unique housing situation and net loss of affordable housing units in  
23 [older] project areas, wishes, to the greatest extent feasible, to replace these lost units  
24 according to the formulas set forth in Section 33413 of the Health and Safety Code."  
25 (Statutes 2000, Chapter 661 § 1 (b)).

1 e. The California Department of Housing and Community Development ("HCD")  
2 has determined that, prior to 1976, the Redevelopment Agency demolished 14,207 units and  
3 replaced 7,498 units, resulting in a net loss of 6,709 affordable units. To date, the  
4 Redevelopment Agency has not replaced these lost units, but has committed funding for the  
5 construction of 241 replacement units that are in the predevelopment phase.

6 f. In 2001, the California Legislature revised the Health and Safety Code to add  
7 Section 33333.8 and Section 33333.6(f). Under Section 33333.8, any time limit in a  
8 redevelopment plan for the receipt of tax increment revenue and the repayment of debt, and  
9 any limit on the total amount of tax increment funds that a redevelopment agency may receive  
10 for any project area, shall be suspended until the redevelopment agency fulfills its affordable  
11 housing obligations. Section 33333.8 (a)(1) defines these obligations and includes the  
12 "obligation to provide replacement housing pursuant to subdivision (a) of Section 33413  
13 and other similar and related statutes" (the "Affordable Housing Obligations").  
14 Section 33333.6(f) confirms that the suspension of plan limits provided by Section 33333.8  
15 applies to redevelopment plans adopted on or before December 31, 1993. Under  
16 Section 33333.6(e)(4)(B) the Board of Supervisors may amend the Plan as contemplated by  
17 the Ordinance without following the amendment process otherwise required by the  
18 Community Redevelopment Law. Accordingly, under Section 33333.8 the Board of  
19 Supervisors has the authority to amend the Plan as contemplated by this Ordinance to permit  
20 the Redevelopment Agency to receive additional tax increment revenue from the Rincon  
21 Point-South Beach Project Area for use in fulfilling the Redevelopment Agency's Affordable  
22 Housing Obligations, subject only to the payment of funds to repay indebtedness and required  
23 payments to taxing entities under Section 33607.5.

24 g. On July 18, 2006, the Board of Supervisors adopted Resolution No. 423-06,  
25 approving the Redevelopment Agency's budget for fiscal year 2006-07, and authorizing the

1 issuance by the Redevelopment Agency of bonds in a principal amount not to exceed  
2 \$146,850,000, including at least approximately \$34,000,000 in bonds that are contingent on  
3 the adoption of this Ordinance.

4 h. In Ordinance No. 15-05, the Board of Supervisors has previously approved the  
5 extension of time limits for establishment of loans, advances and indebtedness applicable to  
6 the Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan, the Hunters Point  
7 Redevelopment Plan, and the India Basin Redevelopment Plan for the exclusive purpose of  
8 financing low and moderate income housing fund activities.

9 i. The Redevelopment Agency approved the proposed amendments to the Plan at  
10 a public hearing on January 16, 2007, and transmitted to the Clerk of the Board of  
11 Supervisors a certified copy of San Francisco Redevelopment Agency Resolution No. 4-2007,  
12 recommending that the Board of Supervisors amend the Plan. Copies of the San Francisco  
13 Redevelopment Agency Resolution and the proposed amendment to the Plan (the  
14 "Redevelopment Plan Amendment") are on file with the Clerk of the Board of Supervisors in  
15 File No. 070335.

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

22 Section 2. Pursuant to Sections 33333.8 and 33333.6(e)(4)(B), the Board of  
23 Supervisors of the City and County of San Francisco hereby approves the Redevelopment  
24 Plan Amendment filed with the Clerk of the Board of Supervisors in File No. 070335.

1 The Redevelopment Plan Amendment will (i) extend the time limit for the receipt of tax  
2 increment revenue to repay indebtedness for the purpose of enabling the Redevelopment  
3 Agency to fulfill its Affordable Housing Obligations under Sections 33333.8(a) and 33333.7(d),  
4 and (ii) suspend, for the exclusive purpose of financing Low and Moderate Income Housing  
5 Fund activities as described in Section 1 above, (a) the \$100,000,000 limit on the amount of  
6 debt that can be outstanding at any one time from the issuance of bonds to be repaid in whole  
7 or in part from the allocation of tax increment funds, and (b) the limit on the amount of tax  
8 increment funds that the Redevelopment Agency may receive.


9 Section 3. Nothing in this Ordinance shall be construed to: 1) change the existing  
10 January 5, 2021 time limit for incurring new debt under Plan for the purpose of financing Low  
11 and Moderate Income Housing Fund activities; 2) extend the effectiveness of the Plan beyond  
12 its expiration date of January 5, 2021; 3) limit the Redevelopment Agency's ability to refund, in  
13 whole or in part, any indebtedness incurred by the Redevelopment Agency for any purpose so  
14 long as the refunding achieves debt service savings; or 4) authorize the Redevelopment  
15 Agency to incur any indebtedness, other than as provided in subsection 3 above, not  
16 previously approved by the Board of Supervisors.

17 Section 4. The Redevelopment Agency will continue to (a) ensure that its expenditure  
18 of funds will be consistent with San Francisco's housing element and its consolidated and  
19 annual action plans submitted to the United States Department of Housing and Urban  
20 Development, and will address the unmet housing needs of very low, low- and moderate  
21 income households, (b) request that HCD certify annually, among other things, that  
22 San Francisco has a housing element that substantially complies with state law, that the  
23 housing element indicates an unmet need for Low and Moderate Income Housing Fund  
24 activities, and that the Redevelopment Agency has met its other affordable housing  
25

1 obligations, and the Redevelopment Agency will obtain the appropriate certifications prior to  
2 incurring any debt that this Ordinance would authorize, and (c) make the required payments to  
3 taxing entities under Section 33607.5 until the Plan terminates on January 5, 2021.

4 Section 5. The Clerk of the Board of Supervisors shall without delay (1) transmit a  
5 copy of this Ordinance to the Redevelopment Agency, (2) record or ensure that the  
6 Redevelopment Agency records a certified copy of this Ordinance, and (3) transmit, by  
7 certified mail, return receipt requested, a copy of this Ordinance, together with a copy of the  
8 Redevelopment Plan Amendment and a legal description of the Rincon Point-South Beach  
9 Project Area and a map indicating the boundaries of the Rincon Point-South Beach Project  
10 Area, to the Controller, the Tax Assessor, the State Board of Equalization and the governing  
11 body of all taxing agencies in the Rincon Point-South Beach Project Area.

12 APPROVED AS TO FORM:  
13 DENNIS J. HERRERA, City Attorney

14 By:   
15 ANITA L. WOOD  
16 Deputy City Attorney  
17  
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# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 070335

**Date Passed:**

Ordinance approving an amendment to the Rincon Point-South Beach Redevelopment Plan to extend the time for the San Francisco Redevelopment Agency's receipt of tax increment and to suspend both the limit on the total indebtedness outstanding at any one time and the limit on the total number of dollars of tax increment revenue that may be received by the San Francisco Redevelopment Agency under the Plan in order to continue financing Low and Moderate Income Housing Fund activities under the Plan.

---

May 1, 2007 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Alioto-Pier, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Noes: 1 - Jew

May 8, 2007 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval

Noes: 1 - Jew

Excused: 1 - McGoldrick

File No. 070335

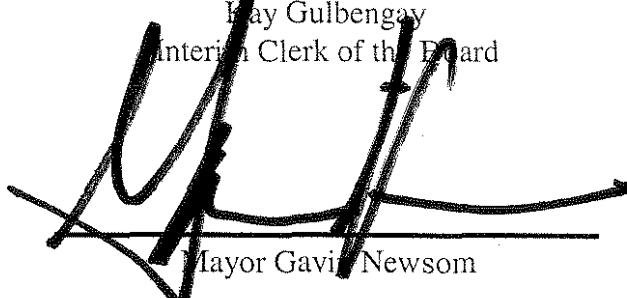
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on May 8, 2007 by the Board of Supervisors of the City and County of San Francisco.

*Kay Gulbengay*

Kay Gulbengay  
Interim Clerk of the Board

MAY 18 2007

Date Approved



Mayor Gavin Newsom

FILE NO. 041467ORDINANCE NO. 15-05

1 [Extending Redevelopment Agency's Times for Incurring and Repaying Debt for Affordable  
2 Housing Development.]

3 **Ordinance approving, for the redevelopment plans listed below, the extension of**  
4 **existing time limits in each plan for establishment of loans, advances and**  
5 **indebtedness and for repayment of indebtedness for the exclusive purpose of**  
6 **financing Low and Moderate Income Housing Fund activities: (1) the Embarcadero-**  
7 **Lower Market (Golden Gateway) Redevelopment Plan, (2) the Hunters Point**  
8 **Redevelopment Plan, (3) the India Basin Industrial Park Redevelopment Plan.**

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

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

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

15 a. The Board of Supervisors originally approved the Embarcadero-Lower Market  
16 (Golden Gateway) Redevelopment Plan by adopting Ordinance No. 301-59 on May 25, 1959.  
17 The Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan has since been  
18 amended ten times. The Embarcadero-Lower Market (Golden Gateway) Redevelopment  
19 Plan prohibits the San Francisco Redevelopment Agency from incurring any debt for that  
20 project after January 1, 2009 and from repaying any such debt after January 1, 2019.

21 b. The Board of Supervisors originally approved the Hunters Point Redevelopment  
22 Plan by adopting Ordinance No. 25-69 on January 20, 1969. The Hunters Point  
23 Redevelopment Plan has since been amended three times. The Hunters Point  
24 Redevelopment Plan prohibits the San Francisco Redevelopment Agency from incurring any

25 ///

*Supervisor Daly*  
San Francisco Redevelopment Agency  
BOARD OF SUPERVISORS

1 debt for that project after January 1, 2004 and from repaying any such debt after January 1,  
2 2019.

3 c. The Board of Supervisors originally approved the India Basin Industrial Park  
4 Redevelopment Plan by adopting Ordinance No. 26-69 on January 20, 1969. The India Basin  
5 Industrial Park Redevelopment Plan has since been amended three times. The India Basin  
6 Industrial Park Redevelopment Plan prohibits the San Francisco Redevelopment Agency from  
7 incurring any debt for that project after January 1, 2004 and from repaying any such debt after  
8 January 1, 2019.

9 d. The redevelopment plans described and referred to in items a. through c. above  
10 are collectively referred to herein as the "Affected Redevelopment Plans."

11 e. Under Section 33333.4(a)(1) of the Health and Safety Code, a pre-1976  
12 redevelopment plan for a particular project area must have a specific limitation on the amount  
13 of tax increment that an agency may receive for fulfilling its redevelopment plan activities,  
14 except that this limitation does not apply to an agency's compliance with housing obligations.  
15 The tax increment limitations for the Affected Redevelopment Plans have either been met or  
16 substantially met.

17 f. Under Section 33333.6(e)(3)(A) of the Health and Safety Code, a legislative  
18 body, such as the Board of Supervisors, may amend a redevelopment plan to extend the time  
19 limit for incurring debt or establishing more debt in order to fulfill a redevelopment agency's  
20 housing obligations. Under Section 33333.6(e)(3)(B), the legislative body may enact these  
21 plan amendments by ordinance without following the plan amendment process otherwise  
22 required by the Community Redevelopment Law.

23 g. The housing obligations for which a redevelopment agency may establish more  
24 debt and extend the time to incur such debt include providing replacement housing when an

25 ///

1 agency destroys or removes low or moderate income housing ("Affordable Housing") in a  
2 project area. Section 33333.8(a)(1)(E) of the CRL.

3 h. Prior to 1976, the Community Redevelopment law did not impose a replacement  
4 housing obligation on redevelopment agencies that destroyed or removed Affordable Housing.

5 i. The California Department of Housing and Community Development ("HCD")  
6 has determined that, prior to 1976, the San Francisco Redevelopment Agency demolished  
7 14,207 units and replaced 7,498 units, resulting in a net loss of 6,709 affordable units.

8 j. In 2000, the California Legislature adopted Senate Bill 2113 (Statutes 2000,  
9 Chapter 661) which added Section 33333.7 to the Health and Safety Code and authorized the  
10 San Francisco Redevelopment Agency, with the Board of Supervisors' approval, to extend its  
11 tax increment financing powers "to redress the demolition of a substantial number of  
12 residential dwelling units affordable to very low, low, and moderate income households during  
13 the agency's earlier urban renewal efforts." Statutes 2000, chapter 661 § 1.

14 k. Senate Bill 2113 authorizes the Board of Supervisors to amend pre-1994  
15 redevelopment plans by extending the Agency's ability to incur indebtedness exclusively for  
16 Low and Moderate Income Housing Fund activities until the earlier of either January 1, 2014  
17 or the Agency's replacement of all Affordable Housing that was lost before state law imposed  
18 a replacement housing obligation. Senate Bill 2113 also authorizes an extension of time to  
19 receive tax increment funds to repay indebtedness incurred to fund these Low and Moderate  
20 Income Housing Fund activities until 2044.

21 l. Senate Bill 2113 requires that the Agency's expenditure of funds must be  
22 consistent with San Francisco's housing element and its consolidated and annual action plans  
23 submitted to the United States Department of Housing and Urban Development and must  
24 address the unmet housing needs of very low, low and moderate income households.

25 ///

1 m. Senate Bill 2113 requires that all of the revenues, e.g. bond proceeds, that it  
2 authorizes shall be devoted to assisting in the development of Affordable Housing, that no  
3 less than 50 percent of the proceeds received shall be devoted to housing for very low income  
4 households, and that no more than 10 percent of the proceeds received shall be devoted to  
5 planning and administrative costs.

6 n. The Agency estimates that Senate Bill 2113 amendments to the Golden  
7 Gateway, India Basin Industrial Park, and Hunters Point Redevelopment Plans would  
8 generate a total of approximately \$58 million in affordable housing funds for fiscal year  
9 2004-05 and that, over a ten-year period, the Agency may receive a total of approximately  
10 \$168 million if the Board of Supervisors amends other plans adopted prior to 1994 to  
11 implement Senate Bill 2113. The Agency intends, in future years, to seek Board of Supervisor  
12 approval to amend these other plans when it completes the redevelopment activities required  
13 under those plans.

14 o. On July 16, 2004, the Board of Supervisors approved the Agency's budget for  
15 fiscal year 2004-05, which includes \$15 million in bond proceeds that are contingent on the  
16 adoption of this proposed ordinance authorizing amendments to the Golden Gateway, India  
17 Basin Industrial Park, and the Hunters Point Redevelopment Plans.

18 p. Prior to incurring any debt under Senate Bill 2113 plan amendments, HCD must  
19 annually certify, among other things, that San Francisco has a housing element that  
20 substantially complies with state law, that the housing element indicates an unmet need for  
21 Low and Moderate Income Housing Fund activities, and that the Agency has met its other  
22 affordable housing obligations. These HCD certifications are not necessary for the adoption  
23 of this proposed ordinance, but the Agency will obtain those certifications prior to incurring any  
24 debt that this proposed ordinance would authorize.

25 ///

1 q. At a public hearing on Tuesday, September 7, 2004, the Agency approved the  
2 above-described amendments to the Affected Redevelopment Plans and subsequently has  
3 transmitted to the Clerk of the Board of Supervisors a certified copy of Agency Resolution  
4 106-2004, adopted September 7, 2004, recommending that the Board of Supervisors amend  
5 each of the Affected Redevelopment Plans. A copy of the Agency Resolution is on file with  
6 the Clerk of the Board of Supervisors in File No. 041467.

7 r. This proposed ordinance extending existing time limits in the Affected Plans for  
8 establishment of loans, advances and indebtedness and for repayment of indebtedness for  
9 the exclusive purpose of financing Low and Moderate Income Housing Fund activities is  
10 exempt from the California Environmental Quality Act (California Public Resources Code  
11 Sections 21000 et seq. and hereafter referred to as "CEQA") because it creates a government  
12 funding mechanism that does not involve any commitment to any specific project which may  
13 result in a potentially significant physical impact on the environment and therefore is not a  
14 "project" under Sections 15378(b)(4) and 15060(c)(3) of the CEQA Guidelines.

15 Section 2. Pursuant to Section 33333.7 of the Health and Safety Code, the Board of  
16 Supervisors of the City and County of San Francisco hereby approves the extension of time  
17 limits (i) for establishment of loans, advances and indebtedness in the Affected  
18 Redevelopment Plans to the earlier of January 1, 2014 or the date that the San Francisco  
19 Redevelopment Agency replaces all of the housing units demolished prior to the enactment of  
20 the replacement housing obligations in Chapter 970 of the Statutes of 1975, and (ii) for  
21 repayment of indebtedness in the Affected Redevelopment Plans to no later than January 1,  
22 2044, all for the exclusive purpose of financing Low and Moderate Income Housing Fund  
23 activities as described in Section 1 above and in accordance with the conditions and  
24 limitations set forth in Section 33333.7 of the Health and Safety Code.

25 ///

1 Section 3. Nothing in this ordinance shall be construed to extend the effectiveness of  
2 any of the Affected Redevelopment Plans except to incur additional indebtedness for Low and  
3 Moderate Income Housing Fund activities, to pay previously incurred indebtedness, and to  
4 enforce existing covenants, contracts, or other obligations.

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

8 By:

  
9 DONNELL W. CHOY  
Deputy City Attorney



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 041467

**Date Passed:**

Ordinance approving, for the redevelopment plans listed below, the extension of existing time limits in each plan for establishment of loans, advances and indebtedness and for repayment of indebtedness for the exclusive purpose of financing Low and Moderate Income Housing Fund activities: (1) the Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan, (2) the Hunters Point Redevelopment Plan, (3) the India Basin Industrial Park Redevelopment Plan.

---

January 4, 2005 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Gonzalez, Ma, Maxwell,  
McGoldrick, Peskin, Sandoval

Excused: 1 - Daly

January 11, 2005 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick,  
Mirkarimi, Peskin, Sandoval

Absent: 1 - Daly


File No. 041467

I hereby certify that the foregoing Ordinance  
was FINALLY PASSED on January 11, 2005  
by the Board of Supervisors of the City and  
County of San Francisco.

JAN 21 2005

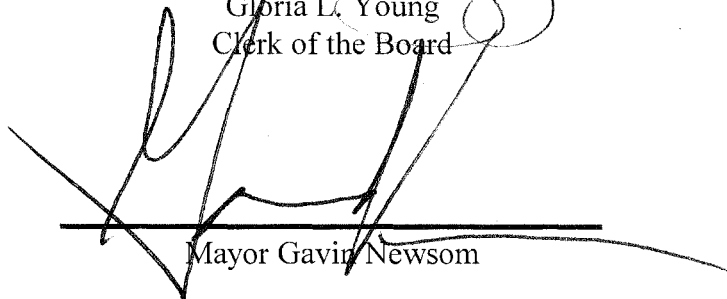
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Date Approved



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Gloria L. Young  
Clerk of the Board



---

Mayor Gavin Newsom

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
OFFICE OF THE DIRECTOR

1800 Third Street, Room 450  
Sacramento, CA 95814  
(916) 445-4775 / Fax (916) 324-5107  
[www.hcd.ca.gov](http://www.hcd.ca.gov)

Exhibit F



April 18, 2003

Ms. Marcia Rosen, Executive Director  
San Francisco Redevelopment Agency  
770 Golden Gate Avenue  
San Francisco, California 94102

**RECEIVED**  
SFRA  
JUN 16 2003  
1-1591-244  
**RECORDS DEPT.**

**Re: Certification of San Francisco's Need to Replace Affordable Housing Units**

Dear Ms. Rosen:

This is in response to your request for the Department of Housing and Community Development (Department) to certify the San Francisco Redevelopment Agency's (Agency) affordable housing replacement need pursuant to Chapter 661, Statutes of 2000 (SB 2113). As you know, the statute specifically authorizes the Agency to extend time limits no later than January 1, 2014 to incur indebtedness exclusively for affordable housing activities. Chapter 661 also required the Department, in consultation with the Agency, to certify the net difference between units demolished and units replaced in pre-1976 project areas.

Your correspondence provided information identifying applicable project areas and described the resources and methodology used to determine the number of units demolished and replaced. The information shows 14,207 units were demolished and 7,498 units have been replaced resulting in a net loss of 6,709 affordable units the Agency must replace. In reviewing Agency information, Department staff conferred with Mr. Olson Lee, Agency Assistant Deputy Executive Director.

Based on our staff's review of information submitted and the Agency's representation, the Department certifies the Agency has an unmet affordable housing replacement need. As you are aware, Chapter 661 includes other requirements that must be addressed to extend project area time limits. If we can provide further assistance in addressing these requirements, please feel free to contact Glen Campora, Manager, Division of Housing Policy Development, at (916) 327-2640.

For your information, we are pleased to report that passage of Proposition 46 provided a historic increase in funds available, on a competitive basis, through the Department to assist cities in addressing their housing and community development needs. Information on these programs, including Notices of Funding Availability (NOFA), is posted on the Department's website at [www.hcd.ca.gov](http://www.hcd.ca.gov). These funds may also be useful in assisting the Agency in meeting San Francisco's affordable housing need.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Bornstein", is written over a large, stylized circular flourish.

Julie Bornstein  
Director

**San Francisco  
Redevelopment Agency**

770 Golden Gate Avenue  
San Francisco, CA 94102

415.749.2400  
TTY 415.749.2500



WILLIE L. BROWN, JR., Mayor

Michelle W. Sexton, President  
Ramon E. Romero, Vice President  
Mark Dunlop  
Leroy King  
Kathryn C. Palamountain  
Darshan Singh  
Benny Y. Yee

Marcia Rosen, Executive Director

February 4, 2003

118-06503-196

Ms. Julie Bornstein, Director  
Department of Housing and Community Development  
1800 Third Street  
P.O. Box 952050  
Sacramento, CA 94252-2050

Dear Ms. Bornstein:

On September 24, 2000, the Honorable Gray Davis signed Senate Bill 2113 (the "Bill") into law. The Bill added Section 33333.7 to the California Health and Safety Code (the "Law"), relating to redevelopment, and specifically Low and Moderate Income Housing Fund (LMIHF) activities within the City and County of San Francisco. A copy of the Bill, as filed with the Secretary of State on September 26, 2000, is enclosed for your review.

The Bill authorizes the Redevelopment Agency of the City and County of San Francisco (the "Agency") to incur indebtedness exclusively for LMIHF activities until January 1, 2014, or until the Agency replaces all of the housing units demolished prior to January 1, 1976, the effective date of the replacement housing obligations imposed on redevelopment agencies, and to receive tax increment revenues to repay indebtedness incurred for those activities until no later than January 1, 2044. Pursuant to Section 33333.7(d) of the Law the Agency may not incur indebtedness pursuant to this section unless the Director of the California Department of Housing and Community Development ("HCD") certifies, after consulting with the Agency, that there remains a deficit of housing units affordable to persons and families of low and moderate income that the Agency assisted in having rehabilitated, developed, or constructed within the Redevelopment Project Areas adopted prior to January 1, 1976.

This correspondence addresses only the calculation necessary for your 33333.7(d) certification of housing units lost in the Agency's older redevelopment project areas. On a separate occasion, at a point closer to the Agency's first incurring indebtedness pursuant to the Law, the Agency will submit the information to HCD the other certifications pertaining to San Francisco's Housing Element, the Agency's most recent financial audit report, and the Agency's overall compliance with elements of the California Community Redevelopment Law.

The Agency project areas (the "Project Areas") covered by the Bill include the following:

<u>Project Areas</u>	<u>Plan Adoption Date</u>
Diamond Heights	October 24, 1955
Western Addition A-1	May 26, 1956
Golden Gateway	May 25, 1959
Western Addition A-2	October 13, 1964
Yerba Buena Center	April 25, 1966
Hunters Point	January 20, 1969
India Basin Industrial Park	January 20, 1969

Based upon a review of Agency records, the Agency has determined that a total of 14,207 low and moderate income dwelling units were lost due to redevelopment activity in the Project Areas. In those Project Areas, 7,498 dwelling units affordable to households of low and moderate income have been rehabilitated, developed, or constructed. This constitutes a net loss of 6,709 low- and moderate-income dwelling units that were lost prior to replacement housing obligations instituted January 1, 1976. The following are a list of resources and the methodology used in making our determination:

1. VISI Cards, identifying parcels with orders for demolition, for select Project Areas;
2. Demolition logs for select Project Areas;
3. Parcel Appraisals for select Project Areas, including descriptions of improvements, for parcels in select Project Areas;
4. Monthly Demolition Reports for select Project Areas;
5. Payment Records for Demolition for select Project Areas;
6. Physical Progress Reports, submitted to HUD, documenting demolition activities for India Basin Industrial Park;
7. "A listing of Demolished Buildings as of June 3, 1975" for the Western Addition A-2;
8. Report Entitled "Redevelopment Projects in Execution in San Francisco", dated December 1, 1966, citing residential unit acquisition figures for select Project Areas;
9. Report entitled "I'm Glad You Asked", dated February 25, 1958, citing residential unit acquisition figures for select Project Areas;
10. Yerba Buena Center Residential Hotel List;
11. Report entitled "Site Survey of Families, Single Persons, and Businesses", completed in 1951 for the Western Addition A-1;
12. 1995-1996 Summary of Project Area Data and Key Elements for accounting of low and moderate income units produced; and
13. Housing Division "Allhouse" database to augment 1995-1996 Summary of Project Area Data and Key Elements for low- and moderate-income units produced to present.

For each of the following Project Areas, the Agency staff used the following methodology and sources:

### **Diamond Heights**

Review of "Redevelopment Projects in Execution in San Francisco". Review of "Allhouse" database and 1995-1996 Summary of Project Area Data and Key Elements to identify low and moderate income units produced.

### **Western Addition A-1**

Review of "Site Survey of Families, Single Persons, and Businesses" and cross reference of 1995-1996 Summary of Project Area Data and Key Elements for retained and rehabilitated units to determine number of units demolished. Review of "Allhouse" database and 1995-1996 Summary of Project Area Data and Key Elements to identify low- and moderate-income units produced.

### **Golden Gateway**

Review of "Redevelopment Projects in Execution in San Francisco" and cross-reference of VISI records with parcel appraisals to verify number of units demolished. Review of "Allhouse" database and 1995-1996 Summary of Project Area Data and Key Elements to identify low- and moderate-income units produced.

### **Western Addition A-2**

Review of "A Listing of Demolished Buildings as of June 3, 1975" cross referenced with VISI Cards, Monthly Demolition Reports, Parcel Appraisals, and Payment Records for Demolitions to verify number of units demolished. Review of "Allhouse" database and 1995-1996 Summary of Project Area Data and Key Elements to identify low- and moderate-income units produced.

### **Yerba Buena Center**

Cross reference of VISI Cards, Parcel Appraisals, Payment Records for Demolitions, and YBC Residential Hotel List to verify number of units demolished. Review of "Allhouse" database and 1995-1996 Summary of Project Area Data and Key Elements to identify low- and moderate-income units produced.

### **Hunters Point**

Cross reference of VISI Cards, Monthly Demolition Reports to verify number of units demolished. Review of "Allhouse" database and 1995-1996 Summary of Project Area Data and Key Elements to identify low- and moderate-income units produced.

### **India Basin Industrial Park**

Review of Physical Progress Reports to verify number of units demolished. Review of "Allhouse" database and 1995-1996 Summary of Project Area Data and Key Elements to identify low- and moderate-income units produced.

A net loss accounting of units by Project Area is as follows:

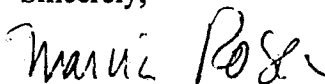
<b>Project Area</b>	<b>Units Lost</b>	<b>Units Produced</b>
Diamond Heights	52	458
Western Addition A-1	3,893	685
Golden Gateway	1,301	0
Western Addition A-2	3,216	3,320
Yerba Buena Center	4,743	1,526
Hunters Point	921	1,469
India Basin Industrial Park	81	0
<b>Totals:</b>	<b>14,207</b>	<b>7,498</b>

**Net Loss: 6,709**

The resources listed above constitute the most accurate information available on the subject and are available for review by HCD staff. In the event of conflicting sources, the Agency has chosen to use the lesser number of units demolished. The numbers presented can be documented, and the Agency acknowledges that its SB2113 replacement goals are, at minimum, the number represented herein.

The Agency very much looks forward to your certification of the above numbers. We are committed to carrying out the Legislature's and the Governor's intent in adopting the Bill and to continuing the Agency's aggressive affordable housing efforts. Should you require additional information regarding our request for certification, please do not hesitate to contact Mr. Olson Lee, Assistant Deputy Executive Director, Housing, at (415) 749-2479. Thank you for your assistance in this matter of critical importance to San Francisco in meeting its affordable housing needs.

Sincerely,



Marcia Rosen  
Executive Director

Enclosure

Senate Bill No. 2113

CHAPTER 661

An act to add Section 33333.7 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 24, 2000. Filed with Secretary of State September 26, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2113, Burton. Redevelopment plans: San Francisco.

The Community Redevelopment Law prescribes time limits on the effectiveness of, and the establishing and payment of debt and the receipt of property taxes pursuant to, redevelopment plans adopted on or before December 31, 1993, and authorizes a 10-year extension of those time limits, as specified. The Community Redevelopment Law also imposes specified requirements relating to replacement of low- or moderate-income housing units that are removed or destroyed.

This bill would authorize the Redevelopment Agency of the City and County of San Francisco, subject to the approval of the board of supervisors of that city and county, to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities until January 1, 2014, or until the agency replaces all of the housing units demolished prior to the enactment of the replacement housing obligations, whichever occurs earlier, and to receive tax increment revenues to repay indebtedness incurred for those activities until no later than January 1, 2044, as specified. The bill would prohibit the agency from incurring that indebtedness until the Director of Housing and Community Development certifies the net difference between those housing units destroyed prior to January 1, 1976, and those rehabilitated, developed, or constructed, prior to that date.

*The people of the State of California do enact as follows:*

SECTION 1. (a) It is the intent of the Legislature in enacting this act to enable the Redevelopment Agency of the City and County of San Francisco to redress the demolition of a substantial number of residential dwelling units affordable to very low, low-, and moderate-income households during the agency's earlier urban renewal efforts. San Francisco's housing situation is unique, in that median rents and sales prices are among the highest in the state even though it has consistently exceeded the housing production goals of the Community Redevelopment Law and has used local funds beyond the Low and Moderate Income Housing Fund to assist

affordable housing development. San Francisco's early redevelopment activities, including the removal of previously existing dwelling units serving a lower income population, have compounded the effects of the private market that have led to the city's current affordable housing crisis.

(b) The Legislature finds and declares that prior to the enactment of the replacement housing obligations in Section 33413 of the Health and Safety Code (Chapter 970, Statutes of 1975), agencies destroyed or removed dwelling units housing persons and families of low or moderate income without replacing those units. In particular, some of San Francisco's existing redevelopment project areas have fewer housing units affordable to low- and moderate-income households than were in existence prior to the initiation of urban renewal activities. Four of San Francisco's project areas adopted prior to 1970 experienced a combined net loss of approximately 7,000 units of housing affordable to low- and moderate-income households since the initiation of redevelopment activities. The Redevelopment Agency of the City and County of San Francisco, due to its unique housing situation and net loss of affordable housing units in these project areas, wishes, to the greatest extent feasible, to replace these lost units according to the formulas set forth in Section 33413 of the Health and Safety Code.

(c) The Legislature further finds and declares that allowing the Redevelopment Agency of the City and County of San Francisco to replace units destroyed or removed prior to the enactment of the replacement housing obligations in 1975 is consistent with a fundamental purpose of the Community Redevelopment Law identified in subdivision (a) of Section 33334.6 of the Health and Safety Code, namely the provision of affordable housing.

(d) The Legislature further finds and declares that the time limits for incurring indebtedness in Section 33333.6 of the Health and Safety Code impede the efforts of the Redevelopment Agency of the City and County of San Francisco to replace affordable housing units destroyed or removed prior to the enactment of the replacement housing obligations in 1975.

(e) The Legislature further finds and declares that the Redevelopment Agency of the City and County of San Francisco should be granted a limited continuance of specific tax increment financing powers to achieve its goal of replacing housing units, and that this continuance will have no fiscal impact on the state.

(f) This limited continuance in no way affords the Redevelopment Agency of the City and County of San Francisco an extension of any of its powers, above and beyond tax increment financing and the collection of tax increment to repay indebtedness exclusively to support Low and Moderate Housing Fund activities, nor does it signify the extension or expansion of the redevelopment plans or

activities to which paragraph (1) of subdivision (a) of Section 33333.6 of the Health and Safety Code applies.

SEC. 2. Section 33333.7 is added to the Health and Safety Code, to read:

33333.7. (a) Notwithstanding the time limits in paragraph (1) of subdivision (a) of Section 33333.6, the Redevelopment Agency of the City and County of San Francisco may, subject to the approval of the Board of Supervisors of the City and County of San Francisco, retain its ability to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities eligible under Sections 33334.2 and 33334.3 until January 1, 2014, or until the agency replaces all of the housing units demolished prior to the enactment of the replacement housing obligations in Chapter 970 of the Statutes of 1975, whichever occurs earlier. The ability of the agency to receive tax increment revenues to repay indebtedness incurred for these Low and Moderate Income Housing Fund activities may be extended until no later than January 1, 2044. Nothing in this paragraph shall be construed to extend a plan's effectiveness, except to incur additional indebtedness for Low and Moderate Income Housing Fund activities, to pay previously incurred indebtedness, and to enforce existing covenants, contracts, or other obligations.

(b) Annual revenues shall not exceed the amount necessary to fund the Low and Moderate Income Housing Fund activities of the agency. The agency shall neither collect nor spend more than 10 percent for the planning and administrative costs authorized pursuant to subdivision (e) of Section 33334.3. Revenues received under this paragraph shall not exceed the amount of tax increment received and allocated to the agency pursuant to the plan, as it has been amended, less the amount necessary to pay prior outstanding indebtedness, and less the amount of the project area's property tax revenue that school entities are entitled to receive pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code if the plan had not been amended. Additionally, revenues collected under this paragraph are subject to the payments to affected taxing entities pursuant to Section 33607.

(c) The activities conducted with revenues received under this paragraph shall be consistent with the policies and objectives of the community's housing element, as reviewed and approved by the department, and shall address the unmet housing needs of very low, low- and moderate-income households. The activities shall also be consistent with the community's most recently approved consolidated and annual action plans submitted to the United States Department of Housing and Urban Development, and if the director deems it necessary, the annual action plans shall be submitted to the department on an annual basis. No less than 50 percent of the

revenues received shall be devoted to assisting in the development of housing that is affordable to very low income households.

(d) The agency shall not incur any indebtedness pursuant to this paragraph until the director certifies, after consulting with the agency, the net difference between the number of housing units affordable to persons and families of low and moderate income that the agency destroyed or removed prior to January 1, 1976, and the number of housing units affordable to persons and families of low and moderate income that the agency rehabilitated, developed, or constructed, or caused to be rehabilitated, developed, or constructed within the project areas adopted prior to January 1, 1976.

(e) The agency shall not incur any indebtedness pursuant to this paragraph unless the director of the department certifies annually, prior to the creation of indebtedness, all of the following:

(1) The community has a current housing element that substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) The community's housing element indicates an unmet need for Low and Moderate Income Housing Fund activities.

(3) The agency's most recent independent financial audit report prepared pursuant to Section 33080.1 reports acceptable findings and no major violations of this part.

(4) The agency has complied with subdivision (a) of Section 33334.2.

(5) The agency has met the requirements of this part with respect to the provision of dwelling units for persons and families of low or moderate income, including, but not limited to, the requirements of Section 33413.

**RESOLUTION NO. 5-2012****Adopted April 10, 2012**

RESOLUTION APPROVING THE INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JANUARY 1, 2012 TO JUNE 30, 2012 AND APPROVING THE SUPPORTING DOCUMENTATION.

WHEREAS, Under Assembly Bill No. X1 26 (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. S194861, the Redevelopment Agency of the City and County of San Francisco (the "SFRA"), together with all other redevelopment agencies in the State of California, dissolved by operation of law on February 1, 2012; and,

WHEREAS, Consistent with AB 26, on January 24, 2012 the City's Board of Supervisors approved and on January 26, 2012 the Mayor signed Resolution No. 11-12 (the "Board of Supervisors Resolution"), providing for the City to become the successor agency of the SFRA, and to acquire its housing and non-housing assets, funds and enforceable obligations, and to fulfill its rights and duties as successor agency to the SFRA under AB 26; and,

WHEREAS, Upon the SFRA's dissolution, the City, as successor agency to the SFRA under AB 26 and the Board of Supervisors Resolution, assumed the former SFRA's assets and the duty to pay and perform "enforceable obligations" of the former SFRA (including bonds and other indebtedness, loans, judgments and settlements, contracts and certain other obligations, all as more particularly defined in AB 26), subject to the terms, conditions and limitations set forth in AB 26. Those enforceable obligations of the former SFRA became the obligations of the City, as the successor agency, but such obligations are payable only from the property tax revenues (former tax increment) or other revenue sources that would have been allocated or payable to the former SFRA or from the security that the former SFRA originally provided or pledged for such obligations; and,

WHEREAS, AB 26 places successor agencies' performance of their duties under the supervision of newly established oversight boards, which are different from the local legislative bodies and which will oversee the fiscal management of future successor agency activities regarding the enforceable obligations. In performing their functions required under AB 26, the oversight boards owe fiduciary responsibilities to the holders of enforceable obligations and the taxing entities entitled to the distribution of property tax revenues under AB 26. Some actions by the oversight boards and successor agencies are also subject to discretionary review by the State Department of Finance and the State Controller under AB 26; and,

WHEREAS, The Mayor (with confirmation by the Board of Supervisors) and the taxing entities have appointed members to the oversight board of the City and County of San Francisco (the "Oversight Board"), which has already met several times and taken various actions that have become effective because the Department of Finance has not objected within the review period under Section 34179 (h) of the Health and Safety Code; and,

WHEREAS, AB 26 requires successor agencies to create Recognized Obligation Payment Schedules ("ROPS") for each six-month period (January-June, July-December), beginning January 1, 2012. Each ROPS must state the minimum payment amounts and due dates for payments required by enforceable obligations for each six-month fiscal period; and,

WHEREAS, AB 26 defines an "enforceable obligation" as meaning any of the following: (a) bonds, including debt service, reserve set-asides and related required payments; (b) loans of money borrowed by the former SFRA, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan term; (c) payments required by the Federal government; obligations to the State or imposed by State law (other than regular pass-through payments), and legally enforceable payments related to Agency employee obligations (including pension system payments or other obligations of a collective bargaining agreement); (d) legal judgments and settlements (other than pass-through payments); (e) legally binding and enforceable agreements and contracts, such as construction contracts, personal services contracts, owner participation agreements, and disposition and development agreements; (f) contracts and agreements necessary for the administration and operation of the successor agency, such as agreements to purchase or rent office space, equipment and supplies, and for carrying insurance; and (g) amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund, provided the repayment schedule is approved by the oversight board (Cal. Health & Safety Code §34171); and,

WHEREAS, For each recognized obligation, AB 26 requires the ROPS to identify one or more of the following payment sources: (1) Low and Moderate Income Housing Fund; (2) bond proceeds; (3) reserve balances; (4) "administrative cost allowance;" (5) the Redevelopment Property Tax Trust Fund (created by the City Controller for property tax revenues (former increment)) when no other funding source is available or when payment from property tax revenues is required by an enforceable obligation; and (5) other revenue sources as approved by the oversight board (Cal. Health & Safety Code §34177(1)(1)); and,

WHEREAS, AB 26 requires each successor agency and its oversight board to approve an initial ROPS for the period January 1, 2012 to June 30, 2012 inclusive; and,

WHEREAS, Under AB 26 the initial ROPS for the City as successor agency will not be valid unless the following conditions are satisfied: (1) a draft ROPS is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by March 1, 2012, and from February 1, 2012 to July 1, 2012 the draft ROPS projects the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the period during which the former SFRA would have been authorized to obligate property tax increment had it not been dissolved, and shall be reviewed and certified as to accuracy by an external auditor; (2) the ROPS, after certification, is submitted to and approved by this Oversight Board; and (3) a copy of the certified ROPS is submitted to the City Controller, the State Controller and the Department of Finance, and posted on the internet website of the City as successor agency (Cal. Health & Safety Code §34177(1)(2)); and,

WHEREAS, The Department of Finance in its Frequently Asked Questions, dated February 29, 2012, requested that the initial ROPS be submitted "as soon as practical to the review agencies and the county auditor-controller, and in no case later than April 15, 2012," and in a letter of March 2, 2012 the Department of Finance urged successor agencies not to delay submittal of their ROPS if the audit of the ROPS would not be completed in time for the April 15 submittal. According to the Department of Finance: ". . . if the auditor designated by your county auditor-controller states the review of the ROPS cannot be completed by April 15, we advise you to submit your ROPS to Finance without waiting for the auditor's review. If, however, your auditor states that they will complete the ROPS review by April 15, we advise you not to submit the ROPS until the review is complete;" and,

WHEREAS, The City Controller has determined that the certification audit cannot be completed by April 15, 2012 and the successor agency has so advised the Department of Finance; and,

WHEREAS, The initial ROPS is attached to this resolution as Exhibit A, and fully incorporated in this resolution (the "Initial ROPS"); and,

WHEREAS, In addition to the duties that AB 26 places on this Oversight Board, the City delegated to this Oversight Board, through the Board of Supervisors Resolution, certain authority and responsibility regarding the implementation of three major approved development projects consistent with the integrated set of enforceable obligations governing them: (1) the Mission Bay North and the Mission Bay South Project Areas (collectively "Mission Bay"), (2) Phases One and Two of the Hunters Point Shipyard Project Area and Zone 1 of the Bayview Hunters Point Project Area (collectively, "Hunters Point Shipyard/Candlestick Point"), and (3) certain parts of the Transbay Transit Center Project Area, including Zone 1 ("Transbay"). (Mission Bay, Hunters Point Shipyard/Candlestick Point and Transbay are sometimes referred to in this resolution as the "Major Approved Development Projects."); and,

- WHEREAS, The City delegation to this Oversight Board included the authority to grant approvals under specified land use controls for the Major Approved Development Projects consistent with the approved redevelopment plans and enforceable obligations, in place of the commission of the former SFRA, with delegation to City staff consistent with the former SFRA's policies and procedures; and,
- WHEREAS, The City further delegated to this Oversight Board the right to approve changes to enforceable obligations for the Major Approved Development Projects, grant variances for individual projects, and enter into new agreements as necessary or appropriate for fulfillment of the Major Approved Development Projects, provided that this Oversight Board finds that any such changes, variances or new agreements are consistent with redevelopment plan objectives that the Board of Supervisors has approved, do not increase the amount of property tax revenues pledged to complete these projects under existing agreements that constitute enforceable obligations under AB 26, and do not materially increase the obligations of the City or materially decrease the intended public benefits to the City, and subject to any Board approval of amendments or new agreements required under Section 9.118 of the Charter or under existing agreements on behalf of the City; and,
- WHEREAS, Narratives summarizing the Major Approved Development Projects and describing all of the enforceable obligations for each of the Major Approved Development Projects are attached to this resolution as Exhibit B, and fully incorporated in this resolution (the "Major Approved Development Projects Summaries"); and,
- WHEREAS, As set forth in the Major Approved Development Project Summaries, the City's assumption of the former SFRA's enforceable obligations require the City to, among other things: (1) form community facilities districts (CFDs) to finance infrastructure and maintain parks and open space and to issue debt secured by the CFD special taxes to finance infrastructure; (2) pledge property tax revenues (former increment) and issue debt secured by those revenues to finance the construction of infrastructure and affordable housing; (3) consummate certain property transfers and public trust exchanges; (4) process land use approvals under the approved redevelopment plans and associated land use controls; and (5) not amend the existing redevelopment plans and associated land use controls without the prior consent of certain third party developers, all as more particularly described in the Major Approved Development Projects Summaries; and,
- WHEREAS, The Board of Supervisors Resolution authorized the City to accept all rights and obligations of the SFRA relating to its affordable housing assets, including the long term affordability covenants restricting the sale, rental, or use of those housing assets for the benefit of low and moderate income households; and,
- WHEREAS, This Oversight Board has acknowledged, by Resolution No. 3-2012 (March 6, 2012), the transfer of affordable housing assets to the Mayor's Office of Housing, as the successor housing agency to the former SFRA, and acknowledged the role of the Oversight Board in reviewing and approving the use of property tax revenues (former increment) that are necessary to comply with enforceable obligations related to affordable housing development; and,

WHEREAS, On March 1, 2012, the successor agency staff had prepared, as required under Section 34177 (d)(2)(A) of the Health and Safety Code, a draft ROPS that included, among other things, the low-moderate income housing set-aside as a continuing obligation for certain project areas, but now proposes to remove those items from the initial ROPS in light of the Department of Finance guidance recently posted on its website under Housing Frequently Asked Questions at [http://www.dof.ca.gov/assembly\\_bills\\_26-27/view.php](http://www.dof.ca.gov/assembly_bills_26-27/view.php); and,

WHEREAS, On March 6, 2012, this Oversight Board, by Resolution 2-2012, acknowledged that existing and future CFD special tax revenues and their expenditure for former redevelopment areas shall not be included in the ROPS and not be subject to review or approval under AB 26 by this Oversight Board or to the review or disapproval of the Department of Finance or State Controller, and that the City, as successor agency to the SFRA, shall administer such funds, provided that this Oversight Board shall have a role under AB 26 in reviewing and approving the use of any property tax revenues (former increment) used to pay CFD indebtedness. The Department of Finance did not object within the review period under Section 34179 (h) of the Health and Safety Code; and,

WHEREAS, The Initial ROPS lists various affordable housing obligations that qualify as an "enforceable obligation" as described above and in AB 26, including legally binding and enforceable agreements; obligations imposed by state law; amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund, provided the repayment schedule is approved by the Oversight Board; and obligations imposed by bond covenants (Cal. Health & Safety Code §34171(d)(1)); and,

WHEREAS, A narrative describing the Long Term Affordable Housing Enforceable Obligations is attached to this resolution as Exhibit C, and fully incorporated in this resolution (the "Housing Obligations Summary"); and,

WHEREAS, As described in the Housing Obligations Summary, the City's assumption of the former SFRA's enforceable obligations require the City to, among other things: (1) develop approximately 1140 affordable housing units in the Candlestick Point-Hunters Point Shipyard Phase 2 Project as part of a Disposition and Development Agreement ("DDA") that is a legally binding and enforceable contract between SFRA and CP Development Co., LP executed in 2010 and that has a separate pledge of property tax revenue (formerly increment) to cover costs associated with the affordable housing development; (2) develop approximately 1445 affordable housing units in Mission Bay South and Mission Bay North (of which 674 units have been constructed) as part of Owner Participation Agreements that are legally binding and enforceable contracts between SFRA and FOCIL-MB, LLC executed in 1998 and that have separate pledges of property tax revenue (formerly increment) to cover costs associated with the affordable housing development; (3) develop approximately 218 affordable housing units in the Hunters Point Shipyard Phase 1 Project as part of a Disposition and Development Agreement ("DDA") that is a legally binding and enforceable contract between SFRA and HPS Developer executed in 2003; (4) develop thirty-five percent (35%) of all housing units in the Transbay Project Area as affordable housing units (estimated in the Report on the Redevelopment Plan

to be 1183 affordable units) as an obligation that is imposed by state law under Section 5027.1 California Public Resources Code and that is required under the Transbay Redevelopment Project Implementation Agreement, a legally binding and enforceable contract between SFRA and the Transbay Joint Powers Authority executed in 2006; and (5) develop approximately 6700 affordable housing units (of which 900 units have been constructed) to replace affordable housing units that the SFRA previously destroyed and did not replace as part of an obligation imposed by state law under Sections 33413 (a), 33333.8 and 33333.7 of the California Health and Safety Codes; and,

WHEREAS, All of the property tax revenues (formerly increment) necessary to fulfill the activities described in the Housing Obligations Summary are amounts owed to the Low and Moderate Income Housing Fund of the SFRA and deferred as of the effective date of AB 26 (June 29, 2011) and therefore subject to approval of the Oversight Board; and,

WHEREAS, The City Controller and successor agency staff, in coordination with the City Attorney's Office, have reviewed the Initial ROPS and all appropriate supporting documentation to validate that the items listed in the Initial ROPS constitute enforceable obligations and Exhibit A meets the requirements for a valid ROPS under AB 26; and,

WHEREAS, Having determined the validity of the Initial ROPS, subject to its certification by an external auditor, the successor agency staff and the City Controller, having consulted with the City Attorney's Office, recommend that the Oversight Board approve the Initial ROPS and authorize its submission to the State Controller and Department of Finance in accordance with the Department of Finance's letter of March 2, 2012; now, therefore, be it

RESOLVED, That this Oversight Board approves the Initial ROPS, including the line items for the Major Approved Development Projects and the Long Term Affordable Housing Enforceable Obligations, for the period January 1, 2012 to June 30, 2012 inclusive, and directs the Executive Director or her designee to submit the ROPS to the City Controller, Department of Finance, and State Controller, post the Initial ROPS on the internet website of the City as successor agency, and to take any other actions necessary or appropriate to comply with AB 26's requirements relating to the ROPS; and, be it, further

RESOLVED, That this Oversight Board has reviewed the Major Approved Development Project Summaries, confirms and approves the enforceable obligations of the City as described therein, accepts and agrees to exercise the authority that the City has delegated to this Oversight Board with respect to the Major Approved Development Projects as described in the Board of Supervisors Resolution, and authorizes City staff to take such actions as may be necessary or appropriate in furtherance of the enforceable obligations consistent with this resolution and the Board of Supervisors Resolution (and subject to any future required approvals of this Oversight Board and the Board of Supervisors consistent with the delegations contained in the Board of Supervisors Resolution); and, be it, further

RESOLVED, That this Oversight Board has reviewed the Housing Obligations Summary, confirms and approves the enforceable obligations of the City as described therein and authorizes City staff to take such actions as may be necessary or appropriate in furtherance of the enforceable obligations consistent with this resolution and the Board of Supervisors Resolution (and subject to any future required approvals of this Oversight Board and the Board of Supervisors consistent with the delegations contained in the Board of Supervisors Resolution); and, be it, further

RESOLVED, That this Oversight Board authorizes City officials to take such actions as may be necessary or appropriate, in consultation with the City Attorney, to effectuate the purpose and intent of this resolution and to comply with AB 26, and ratifies and confirms any prior actions taken by City officials consistent with this resolution.

I hereby certify that the foregoing resolution was adopted by the Oversight Board at its meeting of April 10, 2012

*Natasha Jones*

Board Secretary

Attachments:

Exhibit A: Initial ROPS

- A-1: Non-Housing (including Administrative Expenses)
- A-2: Housing
- A-3: Bonds
- A-4: Pass-Through Payments
- A-5: Unspent Bond Proceeds – Non-Housing
- A-6: Unspent Bond Proceeds – Housing

Exhibit B: Major Approved Development Projects Summaries

- B-1: Mission Bay
- B-2: Transbay
- B-3: Hunters Point Shipyard/Candlestick Point

Exhibit C: Housing Obligations Summary

## Exhibit C

### Executive Summary of the Long Term Affordable Housing Enforceable Obligations

This summary is made with reference to several long term affordable housing obligations (“Affordable Housing Obligations”) that are shown on the Recognized Obligation Payment Schedule (“ROPS”) dated as of April 10, 2012, for the City and County of San Francisco (the “City”), as successor agency to the Redevelopment Agency of the City and County of San Francisco (“Agency”). More particularly, this description relates to items BVHP-1, CH-16 to 21, HPSY-1, MBN-1, MBS-1, and TB-1 on the Housing section of the ROPS.

Several of the Affordable Housing Obligations are integrally related to the three critical redevelopment legacy projects that the City, as successor agency to the Agency, must continue to implement under enforceable obligations consistent with ABx1 26. Under those obligations, the City must:

(1) develop approximately 1140 affordable housing units in the Candlestick Point-Hunters Point Shipyard Phase 2 Project as part of a Disposition and Development Agreement that is a legally binding and enforceable contract between the Agency and CP Development Co., LP executed in 2010 and that has a separate pledge of property tax revenue to cover costs associated with the affordable housing development;

(2) develop approximately 1,445 affordable housing units in Mission Bay South and Mission Bay North (of which 674 units have been constructed) as part of Owner Participation Agreements that are legally binding and enforceable contracts between the Agency and FOCIL-MB, LLC executed in 1998 and that have separate pledges of property tax revenue to cover costs associated with the affordable housing development;

(3) develop approximately 218 affordable housing units in the Hunters Point Shipyard Phase 1 Project as part of a Disposition and Development Agreement that is a legally binding and enforceable contract between the Agency and HPS Developer executed in 2003; and

(4) develop 35% of all housing units in the Transbay Project Area as affordable housing units (estimated in the Report on the Transbay Redevelopment Plan to be 1183 affordable units) as an obligation that is imposed by state law, namely Section 5027.1 of the California Public Resources Code, and that is required under the Transbay Redevelopment Project Implementation Agreement, a legally binding and enforceable contact between the Agency and the Transbay Joint Powers Authority executed in 2006.

In addition, prior to January 1, 2011, the Agency had an existing and unsatisfied obligation to replace affordable housing that it had destroyed and never replaced. The State determined that the Agency destroyed 6,709 affordable housing units prior to 1977 and had not replaced them. Under state legislation enacted in 2000 and 2001, the state authorized the City and Agency to finance this replacement housing obligation with tax increment from redevelopment plans that would have expired or otherwise restricted the availability of tax increment. Senate Bill No. 2113, Statutes 2000, chapter 661 (codified in Section 33333.7 of the California Health and Safety Code) (“SB 2113”); Senate Bill No. 211, Statutes 2001, chapter 741, section 7 (codified in Section 33333.8 of the Health and Safety Code) (“SB 211”).

## Exhibit C

Under SB 2113 and SB 211, the City and Agency have obtained tax increment funding from various Project Areas (India Basin, Hunters Point, Golden Gateway, Rincon-Point South Beach, Western Addition A-2, and Yerba Buena Center) to assist in the development of almost 900 replacement housing units located across the City, leaving approximately 5800 housing units to be replaced.

The obligation to replace the remaining units is imposed by state law under Sections 33413 (a), 33333.7, and 33333.8 of the Health and Safety Code. Furthermore, the amount of property tax revenue necessary to construct the replacement units is an amount “owing to the Low and Moderate Income Housing Fund [LMIHF],” which had not been received by applicable dates established in AB 26. Section 34171 (d) (1) (G). Under the terms of AB 26, the replacement of the remaining 5,800 affordable units is a continuing obligation of the successor agency that requires the future allocation of property tax revenue, subject to approval of the City's Oversight Board.

## Exhibit C

### Summary of the Long Term Affordable Housing Enforceable Obligations

#### Introduction: AB 26 Does Not Prevent a Successor Agency from Fulfilling Housing Obligations.

ABx1 26 (“AB 26”) defines a successor agency’s enforceable obligations in seven broad categories,<sup>1</sup> several of which are significant for purposes of recognizing affordable housing obligations that continue after dissolution of a redevelopment agency. Those categories of enforceable obligations include:

- “obligations imposed by state law,”
- “any legally binding and enforceable agreement,”
- “amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as of the effective date [of AB 26]” if “the repayment schedule is approved by the oversight board.”

Section 34171 (d) (1) (C), (E) and (G).<sup>2</sup> The City and County of San Francisco (“City”), as successor agency to the former San Francisco Redevelopment Agency, is required, among other things, to “make payments due for enforceable obligations,” and “perform obligations required pursuant to any enforceable obligation.” Section 34177 (a) and (c). Significantly, under AB 26, the successor agency, with review and approval by the oversight board, may continue to receive property tax revenues that were formerly characterized as tax increment for the purpose of making payments to fulfill “enforceable obligations.”

Prior to its dissolution, the Redevelopment Agency of the City and County of San Francisco (the “Agency”) listed several long term affordable housing obligations (“Affordable Housing Obligations”) on its Enforceable Obligation Payment Schedule (“EOPS”) and, prior to the EOPS, had listed them on its Statement of Indebtedness (“SOI”). The CRL establishes that the total amount of tax increment necessary to fulfill the CRL’s affordable housing obligations becomes an “indebtedness” to the redevelopment agency’s LMIHF. The SOI is an important measure of the successor agency’s “enforceable obligations” related to affordable housing. Under Section 33675, the Agency prepared and submitted the SOI to the “county auditor,” i.e. City Controller. The SOI “constitutes prima facie evidence of the loans, advances, or indebtedness of the agency” that the county auditor may dispute within thirty days of the SOI’s submission. Section 33675 (h). In its most recent SOI, the Agency listed, among other things, the amount of property tax revenue required to be deposited in the Low and Moderate Income Housing Fund to fulfill each of the Agency’s Affordable Housing Obligations that are described in this Summary. Under AB 26 and the Supreme Court’s decision in Matosantos v. California Redevelopment Assoc., the SOI expires and will have no further effect on May 1, 2012 when the Recognized Obligation Payment Schedule (ROPS) replaces it. Section 34177 (a)(3).

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<sup>1</sup> Cal. Health & Safety Code, § 34171 (d) (1).

<sup>2</sup> All statutory references are to the California Health and Safety Code unless otherwise specified.

## Exhibit C

All of these Affordable Housing Obligations are imposed by either the Community Redevelopment Law (“CRL”) or other state law and constitute payments owing to the Low and Moderate Income Housing Fund (“LMIHF”). Although AB 26 dissolved redevelopment agencies, it did not repeal all provisions of the Community Redevelopment Law. Rather, it transferred to successor agencies the CRL authority and obligations that it does not repeal, restrict, or revise. Section 34173 (b). Furthermore, some of the Affordable Housing Obligations are required under legally binding and enforceable agreements. Significantly, the Agency incurred all of these Affordable Housing Obligations prior to the effective date of AB 26 and prior to January 1, 2011.

The minimum affordable housing obligations of the CRL include the “[t]he obligation to provide replacement housing pursuant to Section 33413 and other similar and related statutes and ordinances.” Section 33333.8 (a)(1)(E). Replacement housing must be provided when an agency has destroyed affordable housing as part of a redevelopment project. Section 33413 (a) . This housing obligation survives the expiration of redevelopment plans, the termination of projects, and other limits that would impede an agency’s compliance with these obligations. Section 33333.8 (a). Indeed, a local jurisdiction may not terminate “a redevelopment project area if the [redevelopment] agency has not complied with its affordable housing obligations.” *Id.* AB 26 did not repeal this affordable housing obligation.

In dissolving redevelopment agencies, AB 26 first suspended their authority to incur new debts and obligations. Section 34163 (c) (4) states that redevelopment agencies, prior to dissolution, did not have the authority to increase deposits to the LMIHF “beyond the minimum level that applied to it as of January 1, 2011.” [emphasis added] Section 34163 (c) (5) states that agencies were not authorized to transfer funds out of the LMIHF “except to meet the minimum housing-related obligations that existed as of January 1, 2011.” [emphasis added] These restrictions on deposits to the LMIHF, which may also limit successor agencies’ activities, do not affect the “minimum level” of LMIHF deposits and the “minimum housing-related obligations” that existed prior to January 1, 2011. In other words, successor agencies may increase deposits to, and expend funds from, the LMIHF for the purpose of fulfilling pre-existing housing obligations.<sup>3</sup>

As of January 1, 2011, the Agency had already incurred the Affordable Housing Obligations. As will be described below, these obligations are part of legally binding and enforceable contracts and state-imposed obligations that survive the adoption of AB 26 and that continue at least until the oversight board has had an opportunity to determine whether the obligation should be “terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities,” Section 34181(e), or approves a “repayment schedule” associated with the housing obligation.

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<sup>3</sup> In light of these pre-existing housing obligations that require the development of future affordable housing projects, the Agency, prior to the effective date of AB 26, issued bonds to fulfill these obligations and has unspent bond proceeds remaining in the Low and Moderate Income Housing Fund. These remaining funds are necessary to fulfill those obligations, even though some of the funds may not have yet been contractually obligated. Accordingly, all such bond proceeds are encumbered for purposes of AB 26.

## Exhibit C

1. The Affordable Housing Production Requirement of the Disposition and Development Agreement for Candlestick Point-Hunters Point Shipyard Phase 2 is a Legally Binding and Enforceable Agreement.

The housing obligation for this project is listed in row BVHP-1 of the ROPS. The Disposition and Development Agreement for Candlestick Point-Hunters Point Shipyard Phase 2 (Phase 2 DDA) obligated the Redevelopment Agency to build approximately 1140 affordable housing units on land that the Developer will prepare for development. See Below-Market Rate Housing Plan, Exhibit F to Phase 2 DDA (“Housing Plan”). The Phase 2 DDA also includes an attached financing plan (the “Financing Plan”) that describes how the entire project will be financed, including the pledge of property tax increment revenues from the project for affordable housing. Concurrently with the approval of the Phase 2 DDA, the City and the Agency entered into a tax allocation pledge agreement (the “Pledge Agreement”), which is attached to the Phase 2 DDA and provides for the pledge of tax increment for affordable housing. The master developer is a third party beneficiary of this agreement with enforcement rights. The Phase 2 DDA and the Pledge Agreement are legally binding and enforceable agreements.

Under the Phase 2 DDA and the Housing Plan, the Developer must prepare “building ready” land by remediating, grading and installing the infrastructure for the residential development within the project site. The parties identified certain lots for use as the affordable housing lots and other lots for use as the market rate housing lots. (See Exhibit F-B to the Housing Plan.) The market rate lots will include specified inclusionary below market rate housing and workforce housing. But Housing Increment will not be used to subsidize these inclusionary or workforce housing units. (See section 3.2 and 3.3 of the Housing Plan.) The parties recognized the importance of integrating and simultaneously developing the market rate and affordable housing. Accordingly, the affordable housing lots were selected with care to ensure that the affordable housing lots would be mixed into, and spread throughout, the Phase 2 project site and would be completed as Housing Increment becomes available, without leaving undeveloped holes in the project areas that could undermine the success of the overall project or deflate the value of surrounding properties.

The Agency committed to build approximately 1,140 affordable housing units on the affordable housing lots, using the Housing Increment. This commitment to build affordable housing arises as and when Housing Increment becomes available, and the Agency agreed to use good faith efforts to cause the completion of the Agency affordable housing as soon as reasonably possible to the extent of available funding. (See section 4 of the Housing Plan.)

A critical component of the project 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 set forth in the Phase 2 DDA, the Alice Griffith Developer, a partnership 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. As described in the Housing Plan, 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. In 2011, the U.S. Department of Housing and Urban Development awarded the Alice Griffith

## Exhibit C

replacement project a \$30,500,000 grant to fund the vertical development of the Alice Griffith replacement projects, which funds are expendable for construction following the successful remediation and infrastructure development planned as part of the Phase 2 project. Without the tax increment financing anticipated under the Phase 2 DDA, development of Alice Griffith and use of this federal grant may be significantly delayed or otherwise impeded.

The Phase 2 DDA, including the Phase 2 Financing Plan, requires that all of the Housing Increment generated within the project site be used for the development of affordable housing units on the project site, including the Alice Griffith replacement project. The Agency committed to use the Housing Increment to build affordable housing units in furtherance of its affordable housing obligations under the CRL. (*See* sections 3.4(b) and (c) of the Phase 2 Financing Plan; "the Agency will use the . . . Housing Increment exclusively to satisfy the Agency Affordable Housing Costs . . . in compliance with section 33334.2 of the CRL"). Under section 1.1(b) of the Phase 2 Financing Plan, the Agency agreed "to take all actions reasonably necessary" to provide Housing Increment for the development of the affordable housing units, including the Alice Griffith replacement units. Under section 3.1(b)(ii) of the Phase 2 Financing Plan, the Agency further agreed to:

budget the expenditure of the expected Housing Increment only to: (A) pay debt service due in the next Agency Fiscal Year on any tax allocation debt issued or to be issued to finance its affordable housing obligations under the Below-Market Rate Housing Plan; (B) pay costs incurred in meeting its affordable housing obligations under the Below-Market Rate Housing Plan; (C) repay the City-wide Housing Advance; and (D) distribute otherwise as provided in Section 3.4(a)(ii).

Due to the importance of the Alice Griffith project, the Agency required that the Alice Griffith Developer complete this project during the first major phase of development. (*See* section 5 of the Housing Plan.) But due to the significant subsidies required to build this project and the lack of property tax increment from the Phase 2 project site at this early stage of development, the Agency agreed to finance some of the costs with property tax increment generated outside of the Phase 2 project site (the "City-wide Housing Advance"). Under the Phase 2 Financing Plan, if the Phase 2 project site generates any net available tax increment that is not required to pay for public infrastructure and other public improvements, then this excess property tax increment will be used to repay the Agency for the City-wide Housing Advance. Section 3.4(a)(ii) of the Phase 2 Financing Plan establishes the following order of priority for the Housing Increment: first, to all predevelopment and development costs of Alice Griffith, second, to pay back the City-wide Housing Advance, third, to pay the Agency's costs of its affordable housing obligations, and fourth, to pay the Developer's unreimbursed development costs of Alice Griffith.

The Agency's obligation to make the City-wide Housing Advance is unconditional, to the extent of available property tax increment from other project areas, and is a necessary component to the completion of the Alice Griffith replacement project. But the Phase 2 Financing Plan makes clear that the Agency would not be willing to make the City-wide Housing Advance unless the Agency had the right to pay those funds back when Housing Increment from the Phase 2 project site becomes available to do so.

## Exhibit C

In sum, the Phase 2 DDA, including the Housing Plan, includes specific enforceable obligations relating to the completion of affordable housing on the Phase 2 project site, and these obligations were entered into by the Agency, the City and the Developer in furtherance of, and in compliance with, the CRL. The Developer agreed to build all of the necessary infrastructure and affordable housing lots, and working with an affordable housing partner, agreed to build the Alice Griffith replacement project. The Agency agreed to build approximately 1,140 Agency affordable housing units, provide an advance to subsidize the Alice Griffith replacement project, and to pledge all of the Housing Increment for the Alice Griffith replacement project and the Agency affordable units. The Agency further agreed to issue debt to finance these costs, as described in Section II.B.3 above and supported by the Tax Allocation Pledge Agreement.

### 2 The Affordable Housing Production Requirement of the Owner Participation Agreements for Mission Bay North and Mission Bay South are Legally Binding and Enforceable Agreements.

The housing obligations for these projects are listed in rows MBN-1 and MBS-1 of the ROPS. In November 1998, the Agency and Catellus Development Corporation (“Owner”) entered into two separate Owner Participation Agreements for the Mission Bay North and Mission Bay South Redevelopment Projects (“OPAs”),<sup>4</sup> which included Financing Plans requiring the Agency to spend housing increment for affordable housing.<sup>5</sup> Concurrently with the approval of the OPAs, the City and the Agency entered into tax allocation pledge agreements (the “Tax Allocation Pledge Agreements”), which provide for the pledge of tax increment for infrastructure and affordable housing, and which provide that the Owner is a third party beneficiary of the agreements with enforceable rights.

Under the OPAs and the Housing Programs (Attachment C to the OPAs), the Owner must transfer up to 14 acres of "building ready" land that has been remediated (in terms of hazardous materials), graded, and served by Infrastructure, for the development of affordable housing within the project sites. The parties identified specific parcels for the affordable housing.<sup>6</sup> The Agency may use these parcels only for Agency sponsored affordable housing units and ancillary uses consistent with "Redevelopment Requirements", which is defined to include the redevelopment plans, scope of development, design for development and Agency-approved constructions documents. (See Sections 3.4 of the Mission Bay South Housing Program at page 21 and Section 4.4 of the Mission Bay North Housing Program at page 29.)

The Owner's market rate residential developments, in Mission Bay North but not Mission Bay South, include inclusionary below market rate housing that will not receive any subsidies

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<sup>4</sup> For purposes of analyzing the enforceability of the housing obligations, the OPAs and related documents for Mission Bay North and Mission Bay South are identical.

<sup>5</sup> The Financing Plan declares that it “is intended to create an “indebtedness of the Agency under Section 33670(b) of the Redevelopment Law which is secured by an Agency pledge of Net Available Increment, and, under the Tax Allocation Agreement, the City has acknowledged that the Agency’s obligations hereunder are subject to repayment from an ongoing Agency pledge of Net Available Increment” (Section 2.C.i).

<sup>6</sup> See Exhibit G, Approved Sites, to the Mission Bay North Housing Program; Exhibit F to the Mission Bay South Housing Program.

## Exhibit C

from the Housing Increment. The parties recognized the importance of integrating and simultaneously developing the market rate and affordable housing. Accordingly, the Agency and Owner selected affordable housing lots throughout the residential districts of the project sites. The Agency is obligated to develop the affordable housing lots as Housing Increment becomes available. The purpose of this deal structure is to limit the number of undeveloped parcels that could adversely affect the value of surrounding private properties. The Financing Plans require the Agency to use the Housing Increment generated within the project sites to finance the development of affordable housing. (See Section 4.B of the Financing Plans.) If there is any Net Available Increment that is not needed to pay debt service on Infrastructure financing or to reimburse the Owner for Infrastructure costs, then the Agency must use that increment (the "Excess Increment") for affordable housing development.

The Agency hereby agrees to use Housing Increment and Agency Excess Increment<sup>7</sup> for the payment of the costs of predevelopment, development or construction of Affordable Housing Units developed or to be developed by the Agency or Qualifying Housing Developers within the North and South Plan Areas as provided herein and in the Tax Allocation Agreement, to the extent such Housing Increment and Agency Excess Increment is necessary to finance the development of such units in accordance with the Housing Program and to obtain the necessary appropriation from the Board of Supervisors under the Tax Allocation Agreement for such purposes.

(Section 4.B.iii of Mission Bay North Financing Plan at page 13 and Mission Bay South Financing Plan at pages 12-3.) (See also Section 2.C.v. of Mission Bay North Financing Plan at page 7,<sup>8</sup> "[T]he Agency hereby covenants to expend or encumber Housing Increment in a manner so as to avoid the sanctions [in the CRL relating to an agency's failure to spend housing funds in a timely manner].")

In sum, the OPAs, including the Housing Programs, create specific enforceable obligations relating to the completion of affordable housing on the project site, and the Agency and the Owner agreed to these obligations to satisfy the requirements of the CRL. AB 26 expressly includes within the definition of enforceable obligations "payments required by ...obligations imposed by state law." (See section 34170(d)(a)(C).) The Owner agreed to build all of the necessary Infrastructure and provide lots ready for the development of affordable housing. The Agency agreed to build approximately 1,445 Agency affordable housing units and pledged all of the Housing Increment and the Excess Increment for affordable housing development. The Agency further agreed to issue debt to finance these costs, as described in Section II.B above and supported by the Tax Allocation Pledge Agreements. To date, the Agency has used the Housing Increment to complete 674 units of affordable housing and to put another 350 units in the predevelopment or construction phase.

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<sup>7</sup> After the Fourth Amendment to the Mission Bay North OPA, all Excess Increment, not just Agency Excess Increment, became available for the Housing Programs.

<sup>8</sup> Section 2.C.v. of Mission Bay South Financing Plan at page 6.

## Exhibit C

### 3. The Affordable Housing Production Requirement of the Disposition and Development Agreement for Phase 1 of the Hunters Point Shipyard is a Legally Binding and Enforceable Agreement.

The housing obligation for this project is listed in row HPSY-1 of the ROPS. The HPS1 DDA obligates the master developer to construct infrastructure and prepare Phase 1 parcels for vertical development in accordance with an Infrastructure Plan and Schedule of Performance. The HPS1 DDA states that once the parcels are improved and subdivided into marketable lots, they will either be sold at fair market value or “retained by the Agency for the ‘vertical development’ of affordable housing and for community economic development.” HPS1 DDA at page 3.

The Phase 1 DDA, including the attached “Affordable Housing Program,” obligates the Agency to build approximately two hundred eighteen (218) affordable housing units on parcels designated as “Agency Housing Parcels”. The Fifth Amendment to the Phase 1 DDA, executed in October 2009, identifies the location of those parcels. The Phase 1 DDA requires the Developer to complete and prepare the Agency Housing Parcels for vertical development, and much of this work has been completed or substantially completed. The Phase 1 DDA provides for the development of approximately 1,498 residential units, with not less than twenty-seven percent (27%) affordable to very low-, low- and moderate-income residents. In addition to the two hundred eighteen (218) Agency-constructed Affordable Housing Units, the other affordable units will be inclusionary units constructed by vertical developers (comprising fifteen percent (15%) of the total units constructed by vertical developers in Phase 1).

Under the Phase 1 DDA, the Agency agreed to use property tax increment to develop the Agency Housing Parcels (not the inclusionary units) for affordable housing as required under the CRL. This obligation, set forth in Section 11 of the Phase 1 DDA, 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 the Phase 1 DDA, 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. Failure of the Agency to develop these lots could result in vacant lots within developed project areas, devaluing the improved properties

## Exhibit C

and destabilizing the economic underpinnings of the Phase 1 Project. In short, the Agency's failure to develop the affordable housing as promised could deprive the Developer of the benefit of its legally enforceable bargain with the Agency.

The City's continued obligation to construct this housing is supported by the language of AB 26, which defines an enforceable obligation to include "any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy." (Section 34167(d)(5), 34171(d)(1)(E)). Under the Phase 1 DDA, the City, as successor agency, has an enforceable obligation to develop affordable housing in the manner specified in Section 11 of the agreement. The City's failure to do so is a default for which the Developer has the right to, among other things, seek specific performance. (*See* Section 13.5(c) Phase 1 DDA.)

The passage of AB 26 does not change any of the relevant facts underlying the contractual agreement between the parties. AB 26 requires that the funds (i.e., the tax increment funds) from the City to meet these contractual obligations continue. For Phase 1 (in contrast to Phase 2) even though there is no separate tax allocation pledge agreement, the Phase 1 DDA itself is an enforceable obligation under AB 26 that encumbers the future property tax increment required to fulfill this obligation. Because the Phase 1 DDA contractually obligated these funds for the development of affordable housing on the Agency Housing Lots, the City, as the Agency's successor, is obliged to use these funds to meet its housing obligations, the same way that it must use former tax increment funds to fulfill all enforceable obligations. Any future tax increment from Phase 1 not used to fulfill enforceable obligations or pay administrative costs as set forth in AB 26 will be distributed to the taxing agencies in accordance with AB 26.

AB 26 expressly preserves enforceable obligations that must draw on future property tax revenues (former tax increment), at least until the oversight board makes a decision about continuing the obligation under Section 34177 (e).

#### 4 The Affordable Housing Production Requirement for Transbay is an Obligation Imposed by State Law.

The housing obligation for Transbay is listed in row TB-1 of the ROPS. AB 26 defines enforceable obligations to include "obligations imposed by state law." Section 34171(d)(1)(C). Section 5027.1 of the Cal. Public Resources Code requires that any redevelopment plan providing for the financing, in whole or in part, of the Transbay Terminal demolition and reconstruction must ensure the development of affordable housing for low and moderate income households. In particular, this state law mandates that 25 percent of the residential units developed in the project area covered by the redevelopment plan must be restricted to low income households and an additional 10 percent must be restricted to moderate income households ("Transbay Affordable Housing Program"). These affordability restrictions must remain in effect for 45 years for ownership units and 55 years for rental units.

In 2005 and 2006, the Board of Supervisors approved, by Ordinance Nos. 124-05 and 99-06 respectively, the Redevelopment Plan for the Transbay Redevelopment Project Area ("Transbay Plan"). The Transbay Plan provided for a financing plan to construct a new terminal. It requires, among other things, the dedication of tax increment generated from certain parcels

## Exhibit C

“to pay costs associated with the construction and design of the Transbay Terminal.” Section 5.7 of Transbay Plan at page 32. The Transbay Plan reiterated the affordable housing production requirement of Section 5027.1 of the Public Resources Code and the Report on the Transbay Plan estimated that the number of affordable units necessary to fulfill this obligation was 1183 units. Also in 2006, the Agency and Transbay Joint Powers Authority (“TJPA”) executed an Implementation Agreement whereby the Agency agreed to “execute all activities related to the implementation of the Transbay Redevelopment Plan . . . . The costs for implementation of the Transbay Redevelopment Plan activities . . . shall be an indebtedness incurred by the Agency . . . . Implementation Agreement, p. 5, § 2.1(d).”

In 2008, the City, the Agency, and the TJPA entered into a Tax Increment Allocation and Sales Proceeds Pledge Agreement (Jan. 31, 2008) implementing the Transbay Plan’s financing plan and committing the tax increment from certain parcels for the costs of the terminal construction (“Transbay Pledge Agreement”). See also Ordinance No. 99-06 (May 19, 2006). The Transbay Pledge Agreement pledges the tax increment from certain parcels in the Project Area to the TJPA so that it “may bond or pledge those revenues as security, use them as cash, loan repayments, or for any other purpose of the Transbay Terminal Project as set forth in the Cooperative Agreement.” Transbay Pledge Agreement, Section 1 at page 3. In reliance on the Transbay Pledge Agreement and related agreements, the TJPA has taken substantial steps to implement the Transbay Terminal Project, including demolition of the old terminal building. The Transbay Pledge Agreement is an enforceable obligation under AB 26 and will provide financing in part for the terminal project.

Section 5027.1 of the Public Resources Code imposed the obligation for the Transbay Affordable Housing Program if the Transbay Plan provided financing for the Transbay Terminal Center Project. Subsequent to enactment of this state law, the City approved the Transbay Plan with authorization for this financing and the City, Agency and TJPA executed an agreement pledging tax increment to the Project. These actions triggered the statutory obligation for the Transbay Affordable Housing Program.

### 5 The Redevelopment Agency Had an Unfulfilled Replacement Housing Obligation That Is Imposed by State Law and Constitutes an Amount Owing to the Low and Moderate Income Housing Fund.

These housing obligations are listed in rows CH-16 to CH-21 of the ROPS. Since 1977, the Community Redevelopment Law has required the replacement of lower income housing that is destroyed or removed from the housing market as part of a redevelopment project. Cal. Health & Safety Code § 33413 (a). AB 26 did not repeal this requirement if the obligation had been incurred, i.e. the affordable housing had been destroyed, prior to its effective date. In 2003, the California Department of Housing and Community Development certified that the Agency had destroyed 6709 affordable housing units prior to 1977 and had not replaced them (the “Agency’s Replacement Housing Obligation”).<sup>9</sup> Notably, the vast majority of lost affordable units were from three project areas: Yerba Buena Center (3217 units), Western Addition A-1 (3208 units) and Golden Gateway (1301 units).

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<sup>9</sup> Letter, J. Bornstein to M. Rosen (April 18, 2003).

## Exhibit C

In 2000, the state legislature enacted legislation providing San Francisco with the authority to finance this replacement housing. Senate Bill No. 2113, Statutes 2000, chapter 661 (codified in Section 33333.7 of the California Health and Safety Code) (“SB 2113”). The legislature found that the “Redevelopment Agency of the City and County of San Francisco, due to its unique housing situation and net loss of affordable housing units in [older] project areas, wishes, to the greatest extent feasible, to replace these lost units according to the formulas set forth in Section 33413 of the Health and Safety Code.” (Statutes 2000, Chapter 661 § 1 (b)). SB 2113, as special legislation, authorized only San Francisco to extend the tax increment authority of older project areas for the exclusive purpose of receiving tax increment and incurring indebtedness to replace the destroyed affordable housing in San Francisco.

In 2001, the state legislature enacted additional legislation that required every redevelopment agency to fulfill certain affordable housing obligations irrespective of the termination of a redevelopment plan or other limits in a plan that might prevent the funding and fulfillment of the housing obligations. Senate Bill No. 211, Statutes 2001, chapter 741, section 7 (codified in Section 33333.8 of the Health and Safety Code) (“SB 211”).<sup>10</sup> These housing obligations include “the obligation to provide replacement housing pursuant to subdivision (a) of Section 33413, Article 9 (commencing with Section 33410), and other similar and related statutes.” Section 33333.8(a) (1) (E). Section 33333.8 applies to the Agency’s Replacement Housing Obligation, which is based on the replacement housing obligation of Section 33413 (a). Collectively, Sections 33413, 33333.7 and 33333.8 established the “obligations imposed by state law” that are the “enforceable obligations under AB 26. Section 34171 (d) (1) (C).

The Agency has relied on both SB 2113 and SB 211 to obtain tax increment funding from India Basin, Hunters Point, Golden Gateway, Rincon-Point South Beach, Western Addition A-2, and Yerba Buena Center (“Project Areas”) to assist in the development of almost 900 replacement housing units located across the City, leaving approximately 5800 housing units to be replaced. With the exception of Rincon Point-South Beach, all of the redevelopment plans for these Project Areas have expired.

The City has adopted several ordinances acknowledging the Agency’s Replacement Housing Obligation:

- Ordinance No. 15-05 (extending time limits for establishment of loans, advance, and indebtedness applicable to the Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan, the Hunters Point Redevelopment Plan, and the India Basin Redevelopment Plan);
- Ordinances Nos. 115-07 and 201-07 (extending time limits for the Redevelopment Agency’s receipt of tax increment and suspending both the limit of total outstanding indebtedness and the limit on tax increment revenue under the Rincon Point-South Beach Redevelopment Plan);

## Exhibit C

- Ordinance No. 316-08 (extending time limits for issuing and repaying debt and suspending limits on the total tax increment revenues under the Western Addition A-2 Redevelopment Plan); and
- Ordinance No. 256-09 (extending time limits for issuing and repaying debt and suspending limits on the total tax increment revenues under the Yerba Buena Center Redevelopment Plan).

All of these ordinances addressing the Agency Replacement Housing Obligation were in effect prior to January 1, 2011 and thus constitute minimum housing-related obligations that the City, as successor agency, assumes under AB 26, subject to oversight board review. The SOI lists the Agency's Replacement Housing Obligation as an indebtedness for each of the affected project areas and provides an estimate of the amount of property tax revenue necessary to fulfill these enforceable obligations.

In sum, the replacement of the remaining 5800 affordable units is a continuing obligation of the successor agency requiring the future allocation of property tax revenue under the terms of AB 26. The obligation to replace the affordable housing is imposed by state law under Sections 33413 (a), 33333.7, and 33333.8 of the Health and Safety Code. Furthermore, the amount of property tax revenue necessary to construct the replacement units is an amount "owing to the Low and Moderate Income Housing Fund [LMIHF]," which had not been paid as of the effective date of AB 26. Section 34171 (d) (1) (G). Nonetheless, the amount of property tax revenue allocated for replacement housing in a particular time period covered by a ROPS is subject to the approval of the Oversight Board. Accordingly, the Oversight Board will have continuing authority to determine the appropriate amount of property tax revenue for replacement housing when it reviews and approves future ROPS.



FW: ROPS III San Francisco City and County Review, Doc Request  
Moua, Brown

to:  
tiffany.bohee@sfgov.org  
09/14/2012 01:18 PM

Cc:  
"sally.oerth@sfgov.org", "ben.rosenfield@sfgov.org", "DeAngelis, Jenny",  
"natasha.jones@sfgov.org"

Hide Details

From: "Moua, Brown" <Brown.Moua@dof.ca.gov>

To: "tiffany.bohee@sfgov.org" <tiffany.bohee@sfgov.org>

Cc: "sally.oerth@sfgov.org" <sally.oerth@sfgov.org>, "ben.rosenfield@sfgov.org" <ben.rosenfield@sfgov.org>, "DeAngelis, Jenny" <Jenny.DeAngelis@dof.ca.gov>, "natasha.jones@sfgov.org" <natasha.jones@sfgov.org>

History: This message has been replied to and forwarded.

Hi Tiffany Bohee,

I am currently reviewing ROPS III for the City and County San Francisco and need additional documents to support these line items. Please provide me with the documents by Monday 10, 2012. I understand that this is a short time frame and appreciate your cooperation. Please begin to send documents to me via email as they become available (it is not necessary to wait until all documents are ready). Also, be sure to reference the line number as indicated in the list below. See items below:

- 1) Item 59 - Grant Agreement for Bayview Opera House- I need the Grant Agreement.
- 2) Item 65 - DDA Phase 1, Horizontal Disposition and Development Agreement – I need the DDA for this Project.
- 3) Item 66 - DDA Phase 2, Horizontal Disposition and Development Agreement – I need the DDA for this Project.
- 4) Item 68 – EDA Grant Agreement – I need the Grant for this Project.
- 5) Item 84 – Contract for Folsom Street, Essex Street – I need the Contract/Agreement for this Item.
- 6) Item 86.01 – Folsom Street ramp/Tran- I need the Contract/Agreement and What Project is TRAN. Transbay=TRAN?
- 7) Item 123.04 – Predevelopment loan – Was there a amendment for this item? I need Contract/Agreement/Amendment for this Item.

- 8) Item 146 – Central freeway parcel and Construction – I need the Contract/Agreement for this item.
- 9) Item 160 – Property Taxes LMIHF – Why is this item being pay by LMIHF? It is my understanding that Property Taxes are paid by the Auditor/Controller.
- 10) Item 5-51 - Many of these item is being funded by RPTTF and Admin Allowance. Many of the item cannot be paid with RPTTF, only Admin Allowance.
- 11) Item 161-170 – These item are Admin Cost and should be paid by Admin Allowance.
- 12) Item 184-189 – These item are Admin Cost and should be paid by Admin Allowance.
- 13) Item 191 – 474 Natoma Tax Increment Loan Agreement- I need the Contract/Agreement.
- 14) Item 196-198 - These item are Admin Cost and should be paid by Admin Allowance.
- 15) Bonds:
- 16) Item 206- Bonds – I need the bond Indenture for this item.
- 17) Item 226- Bonds – I need the bond Indenture for this item.
- 18) Item 230- Bonds – I need the bond Indenture for this item.
- 19) Item 234- Bonds – I need the bond Indenture for this item.
- 20) Item 238- Bonds – I need the bond Indenture for this item.
- 21) Item 242- Bonds – I need the bond Indenture for this item.

Please feel free to contact me if you have any questions.

Thanks,

*Brown Moua, MBA*

Financial and Performance Evaluator I  
California Department of Finance  
W: 916-327-0103 ext. 3718

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**Re: FW: ROPS III San Francisco City and County Review , Doc Request** 

**Sally Oerth** to: Moua, Brown

09/25/2012 05:12 PM

"ben.rosenfield@sfgov.org", "DeAngelis, Jenny",

Cc: "natasha.jones@sfgov.org", "tiffany.bohee@sfgov.org", Amy Lee,  
Gigi Whitley, Olson M Lee, James Morales

Brown,

This e-mail provides the fifth and final response of the Successor Agency to the San Francisco Redevelopment Agency to your request dated Friday, September 14, 2012, for documentation underlying the ROPS III for the City and County of San Francisco. To date we have provided documents relating to your questions numbered (1)-(6), (13) and (15) - (21). Attached to this email are the documents relating to your question numbered (7) - (12) and (14).

**(7) Item 123.04** – Predevelopment loan – Was there a amendment for this item? I need Contract/Agreement/Amendment for this Item.

**RESPONSE:**

The Housing Successor to the former Redevelopment Agency--the Mayor's Office of Housing-- is in the process of amending an existing Predevelopment Loan Agreement with Bayview Supportive Housing, LLC, to provide an additional \$3,253,500 for the pre-development activities associated with the future construction of 121 very low-income senior rental housing units at 5800 Third Street in San Francisco. The \$3 million listed in Item 123.04 is part of the Low and Moderate Income Housing Fund that the Successor Agency transferred to the Housing Successor to complete existing affordable housing enforceable obligations. The Housing Successor will draw the \$3 million from a total of \$20,503,631 that the Agency has transferred to the Housing Successor for this project. See Item #44 of Exhibit C to the Housing Asset List submitted by Mayor's Office of Housing (attached) and approved by DOF in a letter dated September 7, 2012 (attached). The site for this project is also listed as a Housing Successor Owned Real Property in Exhibit A of the Housing Asset List.



Housing Asset List\_760\_August\_1\_Housing\_Asset\_Form\_MASTER\_FOR\_SUBMISSION.xlsx



DOF Approval Letter-Housing Asset Transfer.pdf

The construction of the 5800 Third Street Senior Housing Project fulfills a condition of a \$30.5 million federal grant awarded in 2011 by the U.S. Department of Housing and Urban Development (HUD) under its Choice Neighborhoods Initiative Program: Alice Griffith Homes/Eastern Bayview Choice Neighborhoods Grant Number CA9A506CN1110 ("CNI Grant"). See Executive Summary of CNI Grant (requiring "improvement of the existing EB [Eastern Bayview] housing stock, new mixed-income and affordable development on Neighborhood infill parcels") (attached). Under the CNI Grant, the former Redevelopment Agency was a Principal Team Member and Neighborhood Implementation Entity obligated to implement the neighborhood component of the Transformation Plan, which requires the revitalization of a severely distressed public housing development, Alice Griffith Public Housing, and its surrounding neighborhood. See Implementation Grants Projects Summaries at pp. 7-8. <http://portal.hud.gov/hudportal/documents/huddoc?id=CNFY2010-2011.pdf>; Choice

Neighborhoods Implementation Agreement for the Eastern Bayview/Alice Griffith Comprehensive Transformation, Section IV, Responsibilities of Redevelopment Agency, at pp. 6-8 (May 26, 2011) (attached). Although a primary goal of the CNI Grant is the replacement of the Alice Griffith Public Housing, it also requires the Agency and other partners to develop other affordable housing in the area. HUD has determined that the Agency's funding for the 5800 Third Street Senior Housing Project fulfills obligations under the first phase of the CNI Grant. See Letter, D. Blom to Y. Freeman et al. (April 12, 2012) (confirming that the 5800 Third Street senior housing project constitutes the first phase of the Alice Griffith revitalization, and as such, serves as a required deliverable of the [CNI Grant]”) (attached).



Ex\_A\_Executive\_Summary.docx



AG Choice Neighborhoods Implementation Agreement.pdf



MBS Alice Griffith CN - 5800 seniors 4-12-12.pdf

Significantly, compliance with the CNI Grant will ensure that the HUD funds are available for the revitalization of the Alice Griffith Public Housing, which is also an enforceable obligation under the Candlestick Point-Hunters Point Shipyard Phase 2 Disposition and Development Agreement (“DDA Phase 2”). The DDA Phase 2 requires the Agency to fund approximately \$62 million for the public housing replacement. See Exhibit F-C, Alice Griffith Replacement Projects Sources and Uses of Funds, of the Below-Market Rate Housing Plan (Exhibit F to the DDA Phase 2). See <http://www.sfredevelopment.org/index.aspx?page=186> The use of the CNI Grant Funds for the Alice Griffith Public Housing will reduce the Agency's funding obligation. The Agency's DDA Phase 2 obligation to rebuild the Alice Griffith Public Housing is described in greater detail in the Agency's first ROPS submission as an attachment to the Oversight Board's Resolution No. 5-2012 approving the ROPS (Jan.-June 2012) See Exhibits C, Housing Obligations Summary, at pp. 5-6 and Exhibit B-3, Hunters Point Shipyard/Candlestick Point, at pp. 13-15, to Resolution No. 5-2012. (attached) DOF approved the Agency's ROPS I.



RESO 5-2012.pdf



RESO 5-2012-Exhibit C-Housing.pdf



RESO 5-2012-Exhibit B-3-HPS-CP.pdf

**(8) Item 146** – Central freeway parcel and Construction – I need the Contract/Agreement for this item.

**RESPONSE:**

In January – June 2012, the Housing Successor to the former Redevelopment Agency—the Mayor's Office of Housing—will enter into a predevelopment agreement for the development of approximately 80 rental units for very low income families on this undeveloped parcel, which appears as Housing Successor Owned Real Property in Exhibit A of the Housing Asset List that

DOF approved in a letter dated September 7, 2012. The \$1 million described in ROPS III Item # 146 is included as part of a larger amount (\$15 million) that is owed for an enforceable obligation and listed on Exhibit C of Housing Asset List under Encumbered Housing Funds for Enforceable Obligations (Item #54). To fund this affordable housing project, the Successor Agency will draw property tax revenues from the Yerba Buena Center Redevelopment Project Area, which has a redevelopment plan remaining in effect for the purpose of funding affordable replacement housing units that the Redevelopment Agency destroyed. See Ordinance No. 256-09 of the City and County of San Francisco (Dec. 18, 2009) (attached).



YBC Plan Amend Ord-Approved 12.18.09.pdf

Prior to January 1, 2011, the Agency had an existing and unsatisfied obligation to replace affordable housing that it had destroyed and never replaced. In 2003, the California Department of Housing and Community Development (HCD) determined that the Agency had destroyed 6,709 affordable housing units prior to 1977 and had not replaced them. See Letter, J. Bornstein to M. Rosen (April 18, 2003) (attached). In documentation submitted to HCD, the Agency established that several project areas had lost a significant amount of affordable housing. Letter, M. Rosen to J. Bornstein (Feb. 4, 2003) (e.g. net loss of 3217 affordable units in Yerba Buena Center) (attached). Under state legislation enacted in 2000 and 2001, the state authorized the City and County of San Francisco and the Agency to finance this replacement housing obligation with tax increment from redevelopment plans that would have expired or otherwise restricted the availability of tax increment. Senate Bill No. 2113, Statutes 2000, chapter 661 (codified in Section 33333.7 of the California Health and Safety Code) (attached); Senate Bill No. 211, Statutes 2001, chapter 741, section 7 (codified in Section 33333.8 of the Health and Safety Code) (minimum affordable housing obligations of the CRL include the “[t]he obligation to provide replacement housing pursuant to Section 33413 and other similar and related statutes and ordinances.”) The obligation to replace the remaining units is thus imposed by state law under Sections 33333.7, 33333.8 (a)(1)(E), and 33413 (a) of the California Health and Safety Code. (“Replacement Housing Obligation”).



HCD certification-4.18.03 & RDA request-2.04.03.pdf

Since the enactment of these laws, the Agency has developed almost 900 replacement housing units and thus has a deficit of approximately 5800 housing units that it needs to replace. This obligation survives the expiration of redevelopment plans, the termination of projects, and other limits that would impede an agency’s compliance with these obligations. See Section 33333.8 (b) (If redevelopment plan expires and redevelopment agency has not complied with Replacement Housing Obligation, “the agency shall receive and use all tax increment funds that are not pledged for indebtedness until the agency has fully complied with its obligations.”) Neither AB 26 nor AB 1484 repealed the Replacement Housing Obligation. Instead, the law recognizes that enforceable obligations include “obligations imposed by state law,” such as the Replacement Housing Obligation. Cal. Health & Safety Code § 34171 (d) (1) (C).

The Agency’s Replacement Housing Obligation has appeared on each of the ROPS that the

Oversight Board and DOF have approved. Moreover, various Housing Successor actions implementing the Replacement Housing Obligation appear on the Housing Asset List that DOF has recently reviewed and approved. In particular, the Oversight Board Resolution No. 5-2012 approving the first ROPS provided an extensive analysis of the Replacement Housing Obligation. See Exhibit C, Housing Obligations Summary, at pp. 11-13 to Resolution No. 5-2012 (April 10, 2012) (attached).



RESO 5-2012-Exhibit C-Housing.pdf

**(9) Item 160** – Property Taxes LMIHF – Why is this item being pay by LMIHF? It is my understanding that Property Taxes are paid by the Auditor/Controller.

**RESPONSE:**

This expenditure was included on ROPS III prior to DOF finishing its review of the City and County of San Francisco's Housing Asset List of affordable housing assets and obligated LMIHF monies that transferred to the San Francisco Mayor's Office of Housing as the designated Successor Housing Agency. DOF has since reviewed the Housing Asset List and had no objections to any item listed.

These expenditures pay for local property taxes to preserve 21 single-family affordable housing units that transferred to Successor Housing Agency. Maintenance, taxes and utilities are some of the costs that must be paid by the Successor Housing Agency until the units are sold to a qualified buyer, as required in the assets' declaration of restriction. The Successor Housing Agency will use obligated LMIHF monies that transferred to the Successor Housing Agency on February 1, 2012, as confirmed by DOF in its review of the Housing Asset List, to make these payments.

**(10) Item 5-51** - Many of these item is being funded by RPTTF and Admin Allowance. Many of the item cannot be paid with RPTTF, only Admin Allowance.

**RESPONSE:** For items 5-40 and 43-51 these expenditures are associated with ROPS approved enforceable obligations and are part of the costs associated with the completion of these projects.

Item 42 are expenses related to retiree medical benefits. These costs are associated with the labor agreements that are deemed to enforceable obligations under AB 26.

**(11) Item 161-170** – These item are Admin Cost and should be paid by Admin Allowance.

**RESPONSE:**

Lines 161-166 are not administrative cost to be paid under the Admin Allowance. These expenditures pay for the maintenance, operation and services related to assets that transferred to Successor Housing Agency (as listed on the Housing Asset List of the Successor Housing Agency). The Successor Housing Agency must pay these costs, until the units are sold to a qualified buyer, as required in the assets' declaration of restriction. The Successor Housing Agency will use obligated LMIHF monies that transferred to the Successor Housing Agency on February 1, 2012, as confirmed by DOF in its review of the Housing Asset List, to make these payments.

Lines 167-170 are project delivery costs to complete the enforceable housing obligations. These expenditures include anticipated costs for direct and indirect staffing services, legal review, contractor compliance, public notices, real estate transactional fees and property maintenance costs.

**(12) Item 184-189** – These item are Admin Cost and should be paid by Admin Allowance.

**RESPONSE:**

Lines 184-186 are expenditures to pay for the maintenance and operation of single-family affordable housing units that transferred to Successor Housing Agency (as listed on the Housing Asset List of the Successor Housing Agency). The Successor Housing Agency must pay these costs, until the units are sold to a qualified buyer, as required in the assets' declaration of restriction. The Successor Housing Agency will use obligated LMIHF monies that transferred to the Successor Housing Agency on February 1, 2012, as confirmed by DOF in its review of the Housing Asset List, to make these payments.

Lines 187 and 188 refer to LMIHF monies that are obligated to maintain 200 Sixth Street, a property transferred to the Successor Housing Agency on February 1, 2012, until construction is underway. These are not administrative costs for the Successor Agency.

Line 189 refers to an encumbered LMIHF predevelopment contract for 200 Sixth Street and is not an administrative cost of the Successor Agency.

**(14) Item 196-198** - These item are Admin Cost and should be paid by Admin Allowance.

**RESPONSE:**

Lines 196-198 are not administrative costs. These expenditures pay for the maintenance and operation of single-family affordable housing units that transferred to Successor Housing Agency (as listed on the Housing Asset List of the Successor Housing Agency). The Successor Housing Agency must pay these costs, until the units are sold to a qualified buyer, as required in the assets' declaration of restriction. The Successor Housing Agency will use obligated LMIHF monies that transferred to the Successor Housing Agency on February 1, 2012, as confirmed by DOF in its review of the Housing Asset List, to make these payments.

In addition, the contract for Item 84 was inadvertently left off our fourth submittal. Please see the attached contract:



Item 84\_TB\_CMG Contract.pdf

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Sally Oerth  
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Successor Agency to the San Francisco Redevelopment Agency  
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San Francisco, CA 94103

Phone: 415.749.2580  
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From: "Moua, Brown" <Brown.Moua@dof.ca.gov>  
To: "tiffany.bohee@sfgov.org" <tiffany.bohee@sfgov.org>  
Cc: "sally.oerth@sfgov.org" <sally.oerth@sfgov.org>, "ben.rosenfield@sfgov.org" <ben.rosenfield@sfgov.org>, "DeAngelis, Jenny" <Jenny.DeAngelis@dof.ca.gov>, "natasha.jones@sfgov.org" <natasha.jones@sfgov.org>  
Date: 09/14/2012 01:18 PM  
Subject: FW: ROPS III San Francisco City and County Review, Doc Request

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Hi Tiffany Bohee,

I am currently reviewing ROPS III for the [City and County San Francisco](#) and need additional documents to support these line items. Please provide me with the documents by Monday 10, 2012. I understand that this is a short time frame and appreciate your cooperation. Please begin to send documents to me via email as they become available (it is not necessary to wait until all documents are ready). Also, be sure to reference the line number as indicated in the list below. See items below:

- 1) Item 59 - Grant Agreement for Bayview Opera House- I need the Grant Agreement.
- 2) Item 65 - DDA Phase 1, Horizontal Disposition and Development Agreement – I need the DDA for this Project.
- 3) Item 66 - DDA Phase 2, Horizontal Disposition and Development Agreement – I need the DDA for this Project.
- 4) Item 68 – EDA Grant Agreement – I need the Grant for this Project.
- 5) Item 84 – Contract for Folsom Street, Essex Street – I need the Contract/Agreement for this Item.
- 6) Item 86.01 – Folsom Street ramp/Tran- I need the Contract/Agreement and What Project is TRAN. Transbay=TRAN?
- 7) Item 123.04 – Predevelopment loan – Was there a amendment for this item? I need Contract/Agreement/Amendment for this Item.
- 8) Item 146 – Central freeway parcel and Construction – I need the Contract/Agreement for this item.
- 9) Item 160 – Property Taxes LMIHF – Why is this item being pay by LMIHF? It is my understanding that Property Taxes are paid by the Auditor/Controller.
- 10) Item 5-51 - Many of these item is being funded by RPTTF and Admin Allowance. Many of the item cannot be paid with RPTTF, only Admin Allowance.
- 11) Item 161-170 – These item are Admin Cost and should be paid by Admin Allowance.
- 12) Item 184-189 – These item are Admin Cost and should be paid by Admin Allowance.
- 13) Item 191 – 474 Natoma Tax Increment Loan Agreement- I need the Contract/Agreement.
- 14) Item 196-198 - These item are Admin Cost and should be paid by Admin Allowance.
- 15) Bonds:
- 16) Item 206- Bonds – I need the bond Indenture for this item.
- 17) Item 226- Bonds – I need the bond Indenture for this item.
- 18) Item 230- Bonds – I need the bond Indenture for this item.
- 19) Item 234- Bonds – I need the bond Indenture for this item.
- 20) Item 238- Bonds – I need the bond Indenture for this item.
- 21) Item 242- Bonds – I need the bond Indenture for this item.

Please feel free to contact me if you have any questions.

Thanks,

*Brown Moua, MBA*

Financial and Performance Evaluator 1  
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