

## RESOLUTION NO. 19-2009

*Adopted February 17, 2009*

### APPROVING A POLICY REGARDING THE AGENCY'S USE OF FUTURE TAX INCREMENT FROM THE FORMER WESTERN ADDITION A-2 REDEVELOPMENT PROJECT TO FULFILL ITS REPLACEMENT HOUSING OBLIGATIONS; WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2

#### BASIS FOR RESOLUTION

1. The Board of Supervisors of the City and County of San Francisco ("Board of Supervisors"), as the legislative body of the Redevelopment Agency of the City and County of San Francisco ("Agency"), originally approved the Redevelopment Plan for the Western Addition A-2 Redevelopment Project by adopting Ordinance No. 273-64 on October 13, 1964. Since then, the Board of Supervisors has amended the plan seven times. (The plan, as so amended, is referred to herein as the "Plan").
2. The Plan expired on January 1, 2009. The Agency no longer has the authority to act pursuant to the Plan except to pay previously incurred indebtedness, to comply with the housing obligations of Section 33333.8 of the California Health and Safety Code, and to enforce existing covenants, contracts, or other obligations. California Health and Safety Code, Section 33333.6(a). (All future section references are to the Community Redevelopment Law, California Health and Safety Code, Sections 33000 et seq. unless otherwise noted.)
3. One of the housing obligations in Section 33333.8 that survives the expiration of a redevelopment plan is the obligation of a redevelopment agency to replace dwelling units that it removed from the low- and moderate-income housing market. Section 33413. An agency must "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 dwelling units that have an equal or greater number of bedrooms as those destroyed or removed units at affordable costs within the territorial jurisdiction of the agency." Id.
4. Prior to 1976, redevelopment agencies did not have a statutory obligation to replace low- and moderate-income housing that they destroyed or removed. Prior to 1976, the Agency demolished 14,207 units and replaced 7,498 units, resulting in a net loss of 6,709 affordable units. To date, the Agency has not replaced these lost units, but has committed funding for the construction of 794 replacement units that are in the predevelopment phase.

5. In 2000, the California Legislature added Section 33333.7 (SB 2113), which authorized the Agency, with the Board of Supervisors approval, to extend its tax increment revenue financing powers “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 [prior to 1976].” (Statutes 2000, Chapter 661 § 1(a)). The California 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)).
6. Section 33333.7 acknowledged the Agency’s interest in fulfilling its housing obligation to replace these lost units and thus is a statute similar, and related, to Section 33413.
7. As originally enacted, Section 33333.7 (SB 2113) authorized the Agency to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities until the earlier of either January 1, 2014 or the Agency’s replacement of all low- and moderate-income housing lost as a result of the implementation of redevelopment plans adopted prior to 1976. SB 2113 also authorized the Agency to receive tax increment funds through 2044 to repay indebtedness incurred to fund these Low and Moderate Income Housing Fund activities.
8. In 2001, the California Legislature revised the Health and Safety Code to add Section 33333.8 and Section 33333.6(f). Under Section 33333.8, a local legislative body must suspend any time limit in a redevelopment plan for the receipt of tax increment revenue and the repayment of debt, and any limit on the total amount of tax increment funds that a redevelopment agency may receive for any project area, until the redevelopment agency fulfills its affordable housing obligations. Section 33333.8(a)(1)(E) defines these housing obligations to 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 33333.6(f) confirms that the suspension of plan limits provided by Section 33333.8 applies to redevelopment plans adopted on or before December 31, 1993. Under Section 33333.6(e)(4)(B), the Board of Supervisors may amend the Plan as contemplated by the Ordinance without following the amendment process otherwise required by the Community Redevelopment Law.
9. Section 33333.8 and its suspension of tax increment limits for the funding of affordable housing obligations applies to every redevelopment project area established under the Community Redevelopment Law “[n]otwithstanding any other provision of law.” Section 33333.8(a).

10. Pursuant to Section 33333.8 and Section 33333.7, the Board of Supervisors has amended the Plan, by Ordinance No. 316-08, to permit the Agency to receive additional tax increment revenue from the Western Addition Redevelopment Project Area A-2 for use in fulfilling its affordable housing obligations, subject only to the payment of funds to repay indebtedness. On December 19, 2008, the Mayor approved Ordinance No. 316-08, which under the Community Redevelopment Law would become effective 90 days after approval. Section 33378.
11. In approving Ordinance No. 316-08, the Board of Supervisors imposed an additional condition on the effective date of the ordinance: “This Ordinance shall not be effective until the Redevelopment Agency shall have adopted a “policy requiring that it use, to the greatest extent feasible, any tax increment revenue authorized by the Redevelopment Plan Amendment to fulfill the Agency’s Housing Obligation by assisting Affordable Housing in the Western Addition A-2 Redevelopment Project.” Section 3 of Ordinance No. 316-08.
12. The Agency now desires to adopt the policy required by the Board of Supervisors in Ordinance No. 316-08.
13. The adoption of this Resolution expressing the Agency’s policy on use of future tax increment from the former Western Addition A-2 Redevelopment Project is not a “project” as defined in the California Environmental Quality Act Guidelines Section 15378(b)(4) because this Resolution is adopted solely to enable the continued funding of Low and Moderate Income Housing Fund activities, and no specific affordable housing project is being approved at this time.

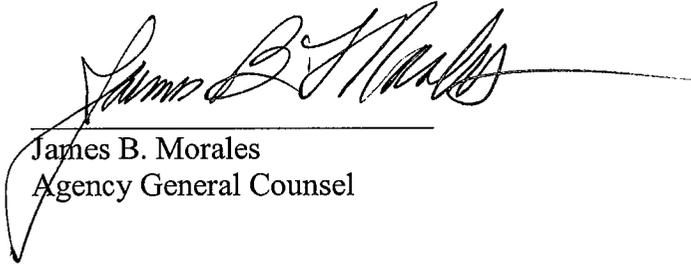
## **RESOLUTION**

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco that it adopts the following policy regarding the use of future tax increment from the former Western Addition A-2 Redevelopment Project:

- 1) The Agency shall use, to the greatest extent feasible, any tax increment authorized by the Western Addition A-2 Redevelopment Plan, as amended by Ordinance No. 316-08, to fulfill its obligation to provide replacement housing, as defined in Sections 33333.7 and 33333.8 of the California Health and Safety Code, in the former Western Addition A-2 Redevelopment Project.
- 2) In providing replacement housing pursuant to this Resolution, the Agency shall comply with the applicable requirements of Section 33413 of the California Health and Safety Code.

3) In any fiscal year in which the provision of replacement housing in the former Western Addition A-2 Redevelopment Project is not feasible, the Agency shall use the tax increment to provide replacement housing within the territorial jurisdiction of the Agency.

**APPROVED AS TO FORM:**



James B. Morales  
Agency General Counsel