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, 1st Extraordinary Session, chapter 5) (“AB 26”) and California Redevelopment Association v. Matosantos (2011) 53 Ca. 4th 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.

Natasha Jones
Commission Secretary