

1 [Determination of Fiscal Feasibility of Proposed Project.]

2 **Ordinance amending the San Francisco Administrative Code by adding a new Chapter**
3 **28 to require Board of Supervisors review of a proposed project meeting certain criteria**
4 **and a determination that the proposed project is fiscally responsible and feasible**
5 **before undertaking environmental review of the proposed project.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are ~~*strikethrough italics Times New Roman*~~.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Administrative Code is hereby amended by adding new
12 Chapter 28, to read as follows:

13 CHAPTER 28 FINDINGS OF FISCAL RESPONSIBILITY AND FEASIBILITY

14 Sec. 28.1. Applicability of this Chapter 28.

15 (a) This Chapter 28 shall be applicable to any project, as defined by the California
16 Environmental Quality Act, Public Resources Code Sections 21000 and following, as amended; and
17 Guidelines for Implementation of the California Environmental Quality Act, as amended, appearing as
18 Title 14, Division 6, Chapter 3 of the California Code of Regulations (hereinafter referred to
19 collectively as CEQA), that is proposed by an office, board, department, commission or other unit of
20 government of the City and County and meets both of the following criteria:

21 (1) the cost of implementing and/or constructing the proposed project exceeds twenty-five
22 million dollars (\$25,000,000.00), and

23 (2) the proposed project may, in some part, be paid for with public monies. For purposes of
24 this Chapter 28, "public monies" shall include, but not be limited to, funding from any of the following

1 sources: general obligation bonds, revenue bonds, City, State or Federal grants or loans, the City's
2 general fund, the revenue of any City department, or permit fees.

3 (b) Notwithstanding Subsection 28.1(a), no provision of this Chapter 28 shall be interpreted
4 to grant the Board of Supervisors broader powers to set policy for a project proposed by an office,
5 board, department, commission or other unit of government of the City and County than is granted by
6 the City Charter or applicable state or federal law and proposed projects shall not be subject to the
7 determination by the Board of Supervisors provided for by this Chapter 28 where the City Charter or
8 applicable state or federal law precludes such a determination by the Board of Supervisors.

9 **Sec. 28.2. Board of Supervisors Determination.**

10 (a) Prior to submittal to the Planning Department of an environmental evaluation
11 application under San Francisco Administrative Code Chapter 31 and CEQA, the office, board,
12 department, commission or other unit of government of the City and County proposing a project (the
13 "Project Sponsor") shall seek and procure a Board of Supervisors determination that the plan for
14 undertaking and implementing the project is fiscally feasible and responsible, as set forth in this
15 Chapter 28. The Board shall consider the project, using the following criteria when it evaluates a
16 project's fiscal feasibility: (1) the demonstrated need for the project; (2) the cost of construction; (3)
17 available funding for the project; (4) the long term operating and maintenance costs of the project; and
18 (5) debt load to be carried by the City department or agency. The Board may consider other criteria
19 that may be useful in evaluating a project's fiscal feasibility.

20 (b) A determination by the Board that the plan for implementing and undertaking the
21 project is fiscally feasible and responsible shall not include a determination as to whether the Project
22 Sponsor or other unit of the government of the City and County should approve the project and it is the
23 intent of the Board of Supervisors in requiring the determination to decide only whether the proposed
24 project merits further evaluation and environmental review.

1 **Sec. 28.3. Information to be Submitted to the Board of Supervisors.**

2 The Project Sponsor shall submit to the Board of Supervisors the following documents and
3 information concerning the proposed project:

4 (1) A proposed resolution for consideration and adoption by the Board of Supervisors
5 finding the plan to undertake and implement the proposed project fiscally responsible and economically
6 feasible. The Mayor, Director of a Project Sponsor department, or an individual Supervisor may
7 introduce the resolution at the Board of Supervisors.

8 (2) The Project Sponsor shall provide information about the proposed project, including but
9 not limited to, a general description of the project, the general purpose of the project, and a fiscal plan
10 describing the estimated cost and all known and potential available funding sources for the project.

11 **Sec. 28.4. Board of Supervisors Procedures for Determination.**

12 (a) The Board of Supervisors, in accordance with its rules of order, shall refer the proposed
13 resolution and information to the Board committee responsible for review of fiscal measures, such as
14 appropriation ordinances, bond issues, taxes, fees and other revenue measures.

15 (b) In evaluating the fiscal feasibility of the proposed project, the Board may request
16 assistance from the Budget Analyst or the Controller. The Project Sponsor may submit additional
17 information to the Board. Based upon the criteria set forth in Section 28.2, the Board shall determine
18 whether the project is fiscally feasible and responsible. The Board shall act by resolution by a majority
19 vote of all its members.

20 (c) The Board shall act as expeditiously as possible, and shall hold a public hearing
21 regarding the fiscal feasibility of a proposed project within ninety (90) days following introduction of
22 the resolution at the Board of Supervisors. The Board may continue its consideration of the proposal
23 in order to receive more information from the Budget Analyst or the Controller or to further consider
24 the proposal. Failure of the Board to hold a public hearing within such 90 day period shall not be
25 deemed to constitute a determination that the project is fiscally feasible and responsible.

1 **Sec. 28.5. Processing of Environmental Review Application.**

2 (a) In the event the Board of Supervisors determines that the proposed project is fiscally
3 feasible and responsible, the Project Sponsor may file an environmental evaluation application with the
4 Planning Department and may undertake environmental review of the proposed project as required by
5 CEQA and Administrative Code Chapter 31.

6 (b) In the event the Board of Supervisors determines that the proposed project is not fiscally
7 feasible, the Project Sponsor shall not undertake environmental review of the proposed project and the
8 Planning Department shall not commence environmental review of the proposed project, including the
9 necessary scoping, technical studies, and preparation of environmental documents.

10 (c) An environmental evaluation application for a project subject to this Chapter 28 shall
11 not be deemed complete, and the Planning Department shall not undertake environmental review of a
12 project, unless a copy of the Board of Supervisors Resolution finding the proposed project is fiscally
13 feasible and responsible is submitted to the Planning Department.

14 **Sec. 28.6. Resubmittal of Project.**

15 The Project Sponsor may revise or modify the proposed project and may submit it again to the
16 Board of Supervisors for consideration pursuant to this Chapter 28 no earlier than three (3) months
17 following a determination by this Board that the proposed project is not fiscally feasible and
18 responsible.

19 **Sec. 28.7. Applicability of this Chapter.**

20 This Chapter 28 shall apply to any proposed project that has not completed environmental
21 review pursuant to the California Environmental Quality Act as of January 27, 2004. In the event
22 environmental review has commenced for a proposed project, the Planning Department shall suspend

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1 its environmental review of the project until the Board of Supervisors has determined that the proposed
2 project is fiscally feasible as set forth in this Chapter 28.

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4 APPROVED AS TO FORM:
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6 By: _____
7 Kate H. Stacy
8 Deputy City Attorney

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