

1 [Establishing City Policy Maximizing a Feasible Inclusionary Affordable Housing Requirement
2 and Adding Exceptions]

3 **Resolution establishing City policy to maximize the economically viable percentage of**
4 **affordable inclusionary housing in market rate development through Board ordinance**
5 **and to ensure fairness and feasibility; and to define certain exceptions to future**
6 **inclusionary housing policy changes.**

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8 WHEREAS, The City adopted an Inclusionary Housing ordinance in 2002 that set
9 requirements on market rate development to include affordable units at 10% of total for the
10 first time; and

11 WHEREAS, The City’s inclusionary program successfully resulted in more than 2,000
12 units of below-market, permanently affordable housing since its adoption; and

13 WHEREAS, The City prepared a Nexus Study in support of the Inclusionary Housing
14 program in 2007 that demonstrated the necessary affordable housing (30% ownership and
15 25% rental) in order to mitigate the impacts of market rate housing, and the inclusionary
16 requirements were increased to 15% of the total; and is now in the process of updating that
17 nexus analysis; and

18 WHEREAS, The City General Plan’s Housing Element calls for 38% of all new housing
19 production to be affordable for lower income households below 80% of area median income
20 and 19% of new housing affordable to be built for moderate/middle income households up to
21 120% of area median income; and

22 WHEREAS, The Inclusionary Housing program is one of the City’s tools for increasing
23 affordable housing dedicated to lower income San Franciscans, without using public
24 subsidies, and the only tool for creating any affordable housing to meet the growing need of
25 moderate/middle income households; and

1 WHEREAS, The City’s current inclusionary housing requirements are codified in
2 Section 415 of the Planning Code (the “Existing Requirements”); and

3 WHEREAS, The City’s requirements on market rate development in many areas of the
4 City have not been increased since 2007; and

5 WHEREAS, In 2010, the City passed the Development Stimulus and Fee Reform to
6 provide developers with the option to defer 80% of all impact fees to the first construction
7 permit in response to the market downturn; and

8 WHEREAS, In 2010, Governor Jerry Brown dissolved the State Redevelopment
9 Agency, which was the City’s primary permanent funding stream for affordable housing; and

10 WHEREAS, In 2012, in response to this loss, the San Francisco Charter was amended
11 to create the Affordable Housing Trust Fund, and further amended to include a provision to
12 lower the inclusionary requirement to 12%; and

13 WHEREAS, In 2014, in response to an escalating housing crisis, the voters passed
14 Proposition K, which set forth a policy directive to the City to dedicate a minimum of 33% of its
15 overall housing production to low- to moderate-income households and 17% to middle-income
16 households; and

17 WHEREAS, The Board of Supervisors has proposed that the voters amend the Charter
18 of the City and County of San Francisco at an election to be held on June 7, 2016 (the
19 “Initiative”) that would authorize the City to enact by ordinance subsequent changes to the
20 Inclusionary Housing requirements, including changes to the minimum or maximum
21 inclusionary or affordable housing obligations applicable to market rate housing projects (such
22 ordinance, an “Inclusionary Housing Ordinance”), now, therefore, be it

23 RESOLVED, That it shall be City policy to maximize the economically feasible
24 percentage of affordable Inclusionary Housing in market rate housing development to create
25 housing for lower and moderate/middle income households, and, be it

1 FURTHER RESOLVED, That the Board of Supervisors intends to adopt an ordinance
2 by April 19, 2016 (the “Trailing Ordinance”) that includes (1) a “grandfathering” clause to
3 consider fairness and feasibility for projects already in the pipeline and (2) a “feasibility” clause
4 requiring the Controller and other City departments to conduct a periodic economic study to
5 maximize affordability in the City’s inclusionary housing requirements; and, be it

6 FURTHER RESOLVED, That such grandfathering clause shall be constructed so as to
7 allow continued economic feasibility for projects already in the pipeline; and, be it

8 FURTHER RESOLVED, That such grandfathering clause may adjust the inclusionary
9 or affordable housing obligations applicable to pipeline projects, which adjustments shall
10 include, but not be limited to, the percentage of required on-site or off-site BMR units, the “in
11 lieu” fee, and/or contractual agreements for the acquisition of existing rent-controlled units
12 vulnerable to eviction, such that the adjusted obligations generate an immediate number of
13 additional affordable units from the pipeline as a whole, approximately 200 units; and be it

14 FURTHER RESOLVED, That the Trailing Ordinance will require the Controller, in
15 consultation with the Planning Department, the Mayor’s Office, and the Board of Supervisors
16 with the assistance of independent analysts to complete an economic feasibility analysis of
17 the City’s Inclusionary Housing fees and on-site and off-site alternatives (“Economic
18 Feasibility Analysis”) at least every 36 months, or more frequently as deemed necessary by
19 the Controller in response to a significant shift in economic or market conditions; and be it

20 FURTHER RESOLVED, That this Economic Feasibility Analysis shall be prepared
21 through a transparent and inclusive public process, including a Technical Advisory Committee
22 appointed by the Board of Supervisors and the Mayor, based on documented costs of housing
23 development over the full course of a business cycle, as well as periodic updates to the nexus
24 analysis to gauge the impact of market rate housing on affordable housing over time; these
25 analyses will be reviewed and accepted by the Board of Supervisors; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors urges that the first Economic
2 Feasibility Analysis shall be prepared prior to May 31, 2016; and, be it

3 FURTHER RESOLVED, That the Economic Feasibility Analysis shall include sensitivity
4 analyses of key economic parameters than can vary significantly over time, such as, but not
5 limited to: interest rates; capitalization rates; equity return rates; land prices; construction
6 costs; available state and federal housing finance programs including Low Income Housing
7 Tax Credits readily available for market rate housing; tax-exempt bond financing; Federal
8 Housing Administration and U.S. Department of Housing and Urban Development mortgage
9 insurance; available City or local housing finance programs, such as, Enhanced Infrastructure
10 District (EIFD) and tax increments; zoning changes that increase or decrease development
11 potential; variable City exactions, including community benefit fees, capacity charges,
12 community facilities districts; and public-private partnership development agreements where
13 applicable and other factors as deemed reasonably relevant; and, be it

14 FURTHER RESOLVED, That the Trailing Ordinance shall provide that the Board of
15 Supervisors, in its sole and absolute discretion, review the Feasibility Analysis within three
16 months of its issuance along with any legislative amendments to the City's Inclusionary
17 Housing in-lieu fees, on-site, off-site or other alternatives recommended by the Controller and
18 Planning Commission to incorporate the Economic Feasibility Study's findings in furtherance
19 of the City's policy of having the maximum percentage of affordable housing developed in
20 market rate housing projects that is economically feasible; and, be it

21 FURTHER RESOLVED, That the Ordinance shall add provisions to enable projects
22 that require at least 20% low-income on-site rental housing to acquire tax-credit financing,
23 often known as "80/20" rental projects, to be economically feasible; and, be it

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1 FURTHER RESOLVED, That the Ordinance shall allow for the average of the project's
2 middle income units to be 100% AMI and the Board of Supervisors will set the maximum
3 affordable unit pricing, based on input from the feasibility study; and, be it

4 FURTHER RESOLVED, That the Trailing Legislation shall allow for the City to approve
5 projects by development agreement, which could include variations from the Inclusionary
6 Housing requirements (including the minimum or maximum inclusionary or affordable housing
7 obligations) established by the Initiative or any future Inclusionary Housing Ordinance; and, be
8 it

9 FURTHER RESOLVED, That the Board of Supervisors intends to adopt the Trailing
10 Ordinance on or before April 19, 2016 and for the Trailing Ordinance to become effective if
11 and upon the effective date of the Initiative.

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