

1 [Designating rent and tax credits as "public monies" for purposes of Fiscal Feasibility
2 Ordinance.]

3 **Ordinance amending the San Francisco Administrative Code by amending**
4 **Sections 29.1, 29.3, 29.4, and 29.7, to: exempt voter-approved projects from the Fiscal**
5 **Feasibility Ordinance; include rent credits and City-granted Mills Act tax credits as**
6 **"public monies" for purposes of the Ordinance; require additional information from**
7 **applicants for environmental review; set a deadline for Board action; and, suspend**
8 **application to certain projects undergoing environmental review.**

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.
12 Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. The San Francisco Administrative Code is hereby amended by amending
15 Sections 29.1, 29.3, 29.4, and 29.7, to read as follows:

16 **SEC. 29.1. APPLICABILITY OF THIS CHAPTER 29.**

17 (a) This Chapter 29 shall be applicable to any project, as defined by the California
18 Environmental Quality Act, Public Resources Code Sections 21000 and following, as
19 amended; and Guidelines for Implementation of the California Environmental Quality Act, as
20 amended, appearing as Title 14, Division 6, Chapter 3 of the California Code of Regulations
21 (hereinafter referred to collectively as CEQA), that is proposed by an office, board,
22 department, commission or other unit of government of the City and County and meets both of
23 the following criteria:

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

1 (2) The Project Sponsor reasonably estimates at the time of filing the application for
2 environmental review that a A portion of the predevelopment, planning or construction costs of
3 the proposed project in excess of \$1,000,000.00, but excluding the costs of City personnel
4 working on such project, will be paid from public monies. For purposes of this Chapter 29,
5 “public monies” shall mean (i) funds from the City’s General Fund or funds otherwise held by
6 any Department of the City, (ii) the proceeds of any indebtedness of the City, including without
7 limitation revenue bonds, lease revenue bonds or certificates of participation secured by the
8 City’s General Fund or funds otherwise held by any City department, ~~or~~ (iii) federal or state
9 grants or loans to, from, or through a City department, entity, or agency, (iv) City Mills Act tax
10 credits, or (v) rent obligations that are reduced, waived or forgiven by the City under a lease for real
11 property, including the fair market value of any free rent period under the lease. Revenues from tax
12 increment financing shall not be considered "public monies" for these purposes.

13 (b) Notwithstanding Subsection 29.1(a), no provision of this Chapter 29 shall be
14 interpreted to grant the Board of Supervisors broader powers to set policy for a project
15 proposed by an office, board, department, commission or other unit of government of the City
16 and County than is granted by the City Charter or applicable state or federal law and
17 proposed projects shall not be subject to the determination by the Board of Supervisors
18 provided for by this Chapter 29 where the City Charter or applicable state or federal law
19 precludes such a determination by the Board of Supervisors.

20 (c) Notwithstanding anything to the contrary in this Chapter 29, this Chapter 29 shall
21 not apply to the following projects:

22 (1) Any project which has been approved by the voters, or where more than seventy-five
23 percent (75%) of the amount of public monies for the project will be financed with proceeds
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1 from a bond measure that the Board of Supervisors has submitted for approval to the voters
2 and which has been approved by the voters; or

3 (2) Any project that is the subject of a term sheet (or similar summary of key terms
4 and conditions) or an exclusive negotiating agreement (or similar agreement setting for a
5 schedule and terms for proceedings towards final transactional documents), approved or
6 endorsed by the Board of Supervisors on or after January 1, 2003 but before July 1, 2004, or
7 that has otherwise been approved or endorsed by the Board of Supervisors during such time
8 period, provided however, that if the Board of Supervisors subsequently elects to withdraw
9 such endorsement or approval, this exemption shall not apply and such project shall be
10 subject to the terms of this ordinance to the extent otherwise applicable; or

11 (3) Any project where funds allocated or granted by the San Francisco County
12 Transportation Authority ("SFCTA"), or other funds secured by or requiring contribution of
13 matching or leveraged SFCTA funds, comprise more than seventy-five percent (75%) of the
14 public monies for the project, provided that the SFCTA has reviewed and approved the plans
15 or projects to be financed with such funds from the SFCTA; or

16 (4) Any project that is a utility capital improvement project under the jurisdiction of
17 the San Francisco Public Utilities Commission.

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19 **SEC. 29.3. INFORMATION TO BE SUBMITTED TO THE BOARD OF SUPERVISORS.**

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

22 (1) A proposed resolution for consideration and adoption by the Board of
23 Supervisors finding the plan to undertake and implement the proposed project fiscally

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1 feasible. The Mayor, Director of a Project Sponsor department, or an individual Supervisor
2 may introduce the resolution at the Board of Supervisors.

3 (2) The Project Sponsor shall provide information about the proposed project,
4 including but not limited to, a general description of the project, the general purpose of the
5 project, and a fiscal plan describing the estimated cost and all known and potential available
6 funding sources for the project. If environmental review already has commenced for a proposed
7 project, the applicant for environmental review shall also identify costs it has incurred for
8 environmental review of the project so far, as well as any other costs it has incurred to date.

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10 **SEC. 29.4. BOARD OF SUPERVISORS PROCEDURES FOR DETERMINATION.**

11 (a) The Board of Supervisors, in accordance with its rules of order, shall refer the
12 proposed resolution and information to the Board committee responsible for review of fiscal
13 measures, such as appropriation ordinances, bond issues, taxes, fees and other revenue
14 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
17 additional information to the Board. Based upon the criteria set forth in Section 29.2, the
18 Board shall determine whether the project is fiscally feasible and responsible. The Board
19 shall act by resolution by a majority 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
22 introduction of the resolution at the Board of Supervisors. The Board may continue its
23 consideration of the proposal in order to receive more information from the Budget Analyst or
24 the Controller or to further consider the proposal, but not for more than an additional 90 days.

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1 Failure of the Board to hold a public hearing within such 180 ~~90~~ day period shall ~~not~~ be
2 deemed to constitute a determination that the project is fiscally feasible and responsible.

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4 **SEC. 29.7. APPLICABILITY OF THIS CHAPTER TO ON-GOING ENVIRONMENTAL**
5 **REVIEW.**

6 This Chapter 29 shall apply to any proposed project that has not completed
7 environmental review pursuant to the California Environmental Quality Act as of January 27,
8 2004. In the event environmental review has commenced for a proposed project, the
9 Planning Department shall not suspend its environmental review of the project, provided that
10 the Project Sponsor submits to the Board of Supervisors, within thirty (30) days of the effective date of
11 this amended ordinance no. _____, the materials required by Section 29.3 for a
12 determination of fiscal feasibility. If a Project Sponsor does not submit the required information within
13 the 30-day period, the Planning Department shall suspend its environmental review of the project until
14 such materials are submitted to the Board of Supervisors. ~~until the Board of Supervisors has~~
15 determined that the proposed project is fiscally feasible as set forth in this Chapter 29, provided that
16 the Planning Department shall not suspend its environmental review of the project if such suspension
17 would lead to a violation of the time frames for environmental review set forth in CEQA or if such
18 suspension would substantially or impermissibly impair existing contractual obligations of the City or
19 any of its departments; and provided further that for projects for which the Planning Department has
20 not completed environmental review prior to January 27, 2004 based on an environmental evaluation
21 application filed by a person or entity other than a city department, the planning department shall not
22 suspend its environmental review for up to ninety (90) days following the effective date of this
23 ordinance or unless and until the Board determines that the project is fiscally infeasible as set forth in
24 this Chapter 29, whichever occurs earlier. Notwithstanding any other provision in this subsection

1 29.7, Chapter 29 shall not apply to any project that includes affordable housing funded in
2 whole or in part through the Mayor's Office of Housing ("MOH"), where the environmental
3 evaluation application for such project was filed prior to January 27, 2004 and where some or
4 all of the MOH funds have been advanced to the project prior to the Effective Date of this
5 Chapter 29.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

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11 By: _____
12 THOMAS J. OWEN
13 Deputy City Attorney

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