

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

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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 as "public monies" for purposes of the**
6 **Fiscal Feasibility Ordinance; require additional information from applicants for**
7 **environmental review; ~~set a deadline for Board action~~; and, suspend application to**
8 **certain projects undergoing environmental review, and, bar City departments from**
9 **extending current Exclusive Right to Negotiate agreements until fiscal feasibility review**
10 **has been successfully completed.**

11 Note: Additions are *single-underline italics Times New Roman*;
12 deletions are *strikethrough italics Times New Roman*.
13 Board amendment additions are double underlined.
14 Board amendment deletions are ~~strikethrough normal~~.

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

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

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

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

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

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

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

22 (c) Notwithstanding anything to the contrary in this Chapter 29, this Chapter 29 shall
23 not apply to the following projects:
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1 (1) Any project ~~which has been approved by the voters, or~~ where more than
2 seventy-five percent (75%) of the amount of public monies for the project will be financed with
3 proceeds from a bond measure that the Board of Supervisors has submitted for approval to
4 the voters and which has been approved by the voters; or

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

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

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

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

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

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

5 (2) The Project Sponsor shall provide information about the proposed project,
6 including but not limited to, a general description of the project, the general purpose of the
7 project, and a fiscal plan describing the estimated cost and all known and potential available
8 funding sources for the project. If environmental review already has commenced for a proposed
9 project on July 1, 2005, the applicant for environmental review shall also identify costs it has
10 incurred for environmental review of the project so far, as well as any other costs it has incurred to
11 date.

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

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

18 (b) In evaluating the fiscal feasibility of the proposed project, the Board may request
19 assistance from the Budget Analyst or the Controller. The Project Sponsor may submit
20 additional information to the Board. Based upon the criteria set forth in Section 29.2, the
21 Board shall determine whether the project is fiscally feasible and responsible. The Board
22 shall act by resolution by a majority vote of all its members.

23 (c) The Board shall act as expeditiously as possible, and shall hold a public hearing
24 regarding the fiscal feasibility of a proposed project within ninety (90) days following
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1 introduction of the resolution at the Board of Supervisors. The Board may continue its
2 consideration of the proposal in order to receive more information from the Budget Analyst or
3 the Controller or to further consider the proposal, ~~but not for more than an additional 90 days.~~
4 Failure of the Board to hold a public hearing within such ~~480~~ 90 day period shall not be
5 deemed to constitute a determination that the project is fiscally feasible and responsible.

6 [NOTE: THE AMENDMENTS TO SECTION 29.4 PROPOSED IN THE PRIOR DRAFT WOULD BE WITHDRAWN;
7 NO CHANGES WOULD BE MADE TO THE EXISTING TEXT.]

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9 **SEC. 29.7. APPLICABILITY OF THIS CHAPTER TO ON-GOING ENVIRONMENTAL**
10 **REVIEW.**

11 (a) This Chapter 29 shall apply to any proposed project that has not completed
12 environmental review pursuant to the California Environmental Quality Act as of January 27,
13 2004. In the event environmental review has commenced for a proposed project, the
14 Planning Department shall not suspend its environmental review of the project, provided that
15 the Project Sponsor submits to the Board of Supervisors, within thirty (30) days of the effective date of
16 this amended ordinance no. _____, the materials required by Section 29.3 for a
17 determination of fiscal feasibility. If a Project Sponsor does not submit the required information within
18 the 30-day period, the Planning Department shall suspend its environmental review of the project until
19 such materials are submitted to the Board of Supervisors. ~~until the Board of Supervisors has~~
20 ~~determined that the proposed project is fiscally feasible as set forth in this Chapter 29, provided that~~
21 ~~the Planning Department shall not suspend its environmental review of the project if such suspension~~
22 ~~would lead to a violation of the time frames for environmental review set forth in CEQA or if such~~
23 ~~suspension would substantially or impermissibly impair existing contractual obligations of the City or~~
24 ~~any of its departments; and provided further that for projects for which the Planning Department has~~

1 ~~not completed environmental review prior to January 27, 2004 based on an environmental evaluation~~
2 ~~application filed by a person or entity other than a city department, the planning department shall not~~
3 ~~suspend its environmental review for up to ninety (90) days following the effective date of this~~
4 ~~ordinance or unless and until the Board determines that the project is fiscally infeasible as set forth in~~
5 ~~this Chapter 29, whichever occurs earlier.~~ Notwithstanding any other provision in this subsection
6 29.7, Chapter 29 shall not apply to any project that includes affordable housing funded in
7 whole or in part through the Mayor's Office of Housing ("MOH"), where the environmental
8 evaluation application for such project was filed prior to January 27, 2004 and where some or
9 all of the MOH funds have been advanced to the project prior to the Effective Date of this
10 Chapter 29.

11 (b) No City department or agency shall take any action to award a new Exclusive Right
12 to Negotiate agreement or similar agreement, or to extend an existing agreement, for a project
13 subject to this Section until the Board of Supervisors has determined that the project is fiscally
14 feasible and responsible under this Chapter.

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