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

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

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

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

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

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

WHEREAS, The Inclusionary Housing program is one of the City’s tools for increasing affordable housing dedicated to lower income San Franciscans, without using public subsidies, and the only tool for creating any affordable housing to meet the growing need of moderate/middle income households; and
WHEREAS, The City's current inclusionary housing requirements are codified in Section 415 of the Planning Code (the “Existing Requirements”); and

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

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

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

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

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

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

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

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

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

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

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

FURTHER RESOLVED, That this Economic Feasibility Analysis shall be prepared through a transparent and inclusive public process, including a Technical Advisory Committee appointed by the Board of Supervisors and the Mayor, based on documented costs of housing development over the full course of a business cycle, as well as periodic updates to the nexus analysis to gauge the impact of market rate housing on affordable housing over time; these analyses will be reviewed and accepted by the Board of Supervisors; and, be it
FURTHER RESOLVED, That the Board of Supervisors urges that the first Economic Feasibility Analysis shall be prepared prior to May 31, 2016; and, be it

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

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

FURTHER RESOLVED, That the Ordinance shall add provisions to enable projects that require at least 20% low-income on-site rental housing to acquire tax-credit financing, often known as “80/20” rental projects, to be economically feasible; and, be it
FURTHER RESOLVED, That the Ordinance shall allow for the average of the project’s middle income units to be 100% AMI and the Board of Supervisors will set the maximum affordable unit pricing, based on input from the feasibility study; and, be it

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

FURTHER RESOLVED, That the Board of Supervisors intends to adopt the Trailing Ordinance on or before April 19, 2016 and for the Trailing Ordinance to become effective if and upon the effective date of the Initiative.
Resolution establishing City policy to maximize the economically viable percentage of affordable inclusionary housing in market rate development through Board ordinance and to ensure fairness and feasibility; and to define certain exceptions to future inclusionary housing policy changes.

March 01, 2016 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

March 01, 2016 Board of Supervisors - ADOPTED AS AMENDED
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on 3/1/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Cavillo
Clerk of the Board

Date Approved: 3/11/2016

Mayor