

1 [Jobs-Housing Linkage Program] **AMENDMENT OF THE WHOLE** IN BOARD 2/12/01
 2 AMENDING ARTICLE III, CHAPTER II, PART II OF THE SAN FRANCISCO MUNICIPAL
 3 CODE (PLANNING CODE) BY AMENDING SECTIONS 313, 313.1, 313.2, 313.3, 313.4,
 4 313.5, 313.6, 313.7, 313.8, 313.9, 313.10, 313.11, 313.12, 313.13, AND 313.14, TO
 5 RENAME THE "OFFICE AFFORDABLE HOUSING PRODUCTION PROGRAM" AS THE
 6 "JOBS-HOUSING LINKAGE PROGRAM," TO APPLY THE PROGRAM TO ALL NEW AND
 7 EXPANDED HOTEL SPACE OF AT LEAST 25,000 SQUARE FEET, TO ALL NEW AND
 8 EXPANDED ENTERTAINMENT SPACE OF AT LEAST 25,000 SQUARE FEET, TO ALL
 9 NEW AND EXPANDED RETAIL SPACE OF AT LEAST 25,000 SQUARE FEET, AND TO
 10 ALL NEW AND EXPANDED RESEARCH AND DEVELOPMENT SPACE OF AT LEAST
 11 25,000 SQUARE FEET; TO SET FORTH THE NUMBER OF HOUSING UNITS TO BE
 12 CONSTRUCTED FOR EACH TYPE OF DEVELOPMENT SUBJECT TO THIS ORDINANCE;
 13 TO INCREASE THE NUMBER OF HOUSING UNITS AND FEES FOR OFFICE
 14 DEVELOPMENTS; AND BY ADDING SECTION 313.15 TO REQUIRE A STUDY EVERY
 15 FIVE YEARS DETERMINING THE DEMAND FOR HOUSING CREATED BY COMMERCIAL
 16 DEVELOPMENT.

17
 18 Note: Additions are underlined; deletions are in ((double parentheses)).

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

20
 21 Section 1. Chapter II, Article III of the San Francisco Planning Code is hereby
 22 amended by amending Sections 313, 313.1, 313.2, 313.3, 313.4, 313.5, 313.6, 313.7, 313.8,
 23 313.9, 313.10, 313.11, 313.12, 313.13, and 313.14 to read as follows:

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1 **SEC. 313. HOUSING REQUIREMENTS FOR ((OFFICE)) LARGE-SCALE**
2 **COMMERCIAL DEVELOPMENT PROJECTS.** Sections 313.1 through ((313.14)) 313.15 set
3 forth the requirements and procedures for the ((Office Affordable Housing Production
4 Program)) Jobs-Housing Linkage Program.

5
6 **SEC. 313.1. DEFINITIONS.** The following definitions shall govern interpretation
7 of this ordinance:

8 (1) “Affordable housing project” shall mean a housing project containing units
9 constructed to satisfy the requirements of Sections 313.5 or 313.7 of this ordinance or
10 receiving funds from the Citywide Affordable Housing Fund under Section 313.12.

11 (2) “Affordable to a household” shall mean a purchase price that a household
12 can afford to pay based on an annual payment for all housing costs of 33 percent of the
13 combined household annual net income, a 10 percent down payment, and available financing,
14 or a rent that a household can afford to pay based on an annual payment for all housing costs
15 of 30 percent of the combined annual net income.

16 (3) “Affordable to qualifying households” shall mean:

17 (A) With respect to owned units, the average purchase price on the initial
18 sale of all affordable owned units in an affordable housing project shall not exceed the
19 allowable average purchase price. Each unit shall be sold:

20 (i) Only to households with an annual net income equal to or less than that
21 of a household of moderate income; and

22 (ii) ((On the initial sale, a)) At or below the maximum purchase price((; and)).

23 (((iii) On subsequent sales, at or below the prices to be determined by the
24 Director in rules and regulations promulgated pursuant to Section 313.5(f) such that the units
25 are affordable to qualifying households.))

1 (B) With respect to rental units in an affordable housing project, the average
2 annual rent shall not exceed the allowable average annual rent. Each unit shall be rented:

3 (i) Only to households with an annual net income equal to or less than that
4 of a household of lower income;

5 (ii) At or less than the maximum annual rent.

6 (4) "Allowable average purchase price" shall mean:

7 (A) For all affordable one-bedroom units in a housing project, a price
8 affordable to a two-person household of median income as set forth in Title 25 of the
9 California Code of Regulations Section 6932 ("Section 6932") on January 1st of that year;

10 (B) For all affordable two-bedroom units in a housing project, a price
11 affordable to a three ((two))-person household of median income as set forth in Section 6932
12 on January 1st of that year;

13 (C) For all affordable three-bedroom units in a housing project, a price
14 affordable to a four-person household of median income as set forth in Section 6932 on
15 January 1st of that year;

16 (D) For all affordable four-bedroom units in a housing project, a price
17 affordable to a five-person household of median income as set forth in Section 6932 on
18 January 1st of that year.

19 (5) "Allowable average annual rent" shall mean:

20 (A) For all affordable one-bedroom units in a housing project, 18 percent of
21 the median income for a household of two persons as set forth in Section 6932 on January 1st
22 of that year;

23 (B) For all affordable two-bedroom units in a housing project, 18 percent of
24 the median income for a household of three persons as set forth in Section 6932 on January
25 1st of that year;

1 (C) For all affordable three-bedroom units in a housing project, 18 percent of
2 the median income for a household of four persons as set forth in Section 6932 on January
3 1st of that year;

4 (D) For all affordable four-bedroom units in a housing project, 18 percent of
5 the median income for a household of five persons as set forth in Section 6932 on January 1st
6 of that year.

7 (6) "Annual net income" shall mean net income as defined in Title 25 of the
8 California Code of Regulations Section 6916.

9 (7) "Average annual rent" shall mean the total annual rent for the calendar
10 year charged by a housing project for all affordable rental units in the project of an equal
11 number of bedrooms divided by the total number of affordable units in the project with that
12 number of bedrooms.

13 (8) "Average purchase price" shall mean the purchase price for all affordable
14 owned units in an affordable housing project of an equal number of bedrooms divided by the
15 total number of affordable units in the project with that number of bedrooms.

16 (9) "City" shall mean the City and County of San Francisco.

17 ~~((9))~~ (10) "Community apartment" shall be as defined in San Francisco
18 Subdivision Code Section 1308(b).

19 ~~((10))~~ (11) "Condominium" shall be as defined in California Civil Code Section
20 783.

21 (12) "Director of Building Inspection" shall mean the Director of the
22 Department of Building Inspection or his or her designee, including other City agencies or
23 departments.

1 (13) "Director of the Mayor's Office of Housing" shall mean the Director of the
2 Mayor's Office of Housing or his or her designee, including the director of any agency
3 designated by the mayor as a successor to the Mayor's Office of Housing."

4 ~~((11))~~ (14) "Director of Planning" shall mean the Director of ((City)) the
5 Planning Department or his or her designee, including the Mayor's Office of Housing and
6 other City agencies or departments.

7 (15) "Entertainment development project" shall mean any new construction,
8 addition, extension, conversion, or enlargement, or combination thereof, of an existing
9 structure which includes any gross square feet of entertainment use.

10 (16) "Entertainment use" shall mean space within a structure or portion thereof
11 intended or primarily suitable for the operation of a nighttime entertainment use as defined in
12 San Francisco Planning Code Section 102.17, a movie theater use as defined in San
13 Francisco Planning Code Sections 790.64 and 890.64, an adult theater use as defined in San
14 Francisco Police Code Section 191, any other entertainment use as defined in San Francisco
15 Planning Code Sections 790.38 and 890.37, and, notwithstanding San Francisco Planning
16 Code Section 790.38, an amusement game arcade (mechanical amusement devices) use as
17 defined in Planning Code Sections 790.4 and 890.4. Under this ordinance, "entertainment
18 use" shall include all office and other uses accessory to the entertainment use, but excluding
19 retail uses and office uses not accessory to the entertainment use.

20 ~~((12))~~ (17) "First certificate of occupancy" shall mean either a temporary
21 certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San
22 Francisco Building Code Section 109, whichever is issued first.

23 (18) "Hotel development project" shall mean any new construction, addition,
24 extension, conversion, or enlargement, or combination thereof, of an existing structure which
25 includes any gross square feet of hotel use.

1 (19) "Hotel use" shall mean space within a structure or portion thereof
2 intended or primarily suitable for rooms, or suites of two or more rooms, each of which may or
3 may not feature a bathroom and cooking facility or kitchenette and is designed to be occupied
4 by a visitor or visitors to the City who pays for accommodations on a daily or weekly basis but
5 who do not remain for more than 31 consecutive days. Under this ordinance, "hotel use" shall
6 include all office and other uses accessory to the renting of guest rooms, but excluding retail
7 uses and office uses not accessory to the hotel use.

8 (((13))) (20) "Household" shall mean any person or persons who reside or
9 intend to reside in the same housing unit.

10 (((14))) (21) "Household of lower income" shall mean a household composed of
11 one or more persons with a combined annual net income for all adult members which does
12 not exceed the qualifying limit for a lower-income family of a size equivalent to the number of
13 persons residing in such household, as set forth for the County of San Francisco in Title 25 of
14 the California Code of Regulations Section 6932.

15 (((15))) (22) "Household of median income" shall mean a household composed
16 of one or more persons with a combined annual net income for all adult members which does
17 not exceed the qualifying limit for a median-income family of a size equivalent to the number
18 of persons residing in such household, as set forth for the County of San Francisco in Title 25
19 of the California Code of Regulations Section 6932.

20 (((16))) (23) "Household of moderate income" shall mean a household
21 composed of one or more persons with a combined annual net income for all adult members
22 which does not exceed the qualifying limit for a moderate-income family of a size equivalent to
23 the number of persons residing in such household, as set forth for the County of San
24 Francisco in Title 25 of the California Code of Regulations Section 6932.

1 (((17))) (24) "Housing developer" shall mean any business entity building
2 housing units which receives a payment from a sponsor for use in the construction of the
3 housing units. A housing developer may be (a) the same business entity as the sponsor, (b)
4 an entity in which the sponsor is a partner, joint venturor, or stockholder, or (c) an entity in
5 which the sponsor has no control or ownership.

6 (((18))) (25) "Housing unit" or "unit" shall mean a dwelling unit as defined in
7 San Francisco Housing Code Section 401.

8 (((19))) (26) "Interim Guidelines" shall mean the Office Housing Production
9 Program Interim Guidelines adopted by the City Planning Commission on January 26, 1982,
10 as amended.

11 (((20))) (27) "Maximum annual rent" shall mean the maximum rent that a
12 housing developer may charge any tenant occupying an affordable unit for the calendar year.
13 The maximum annual rent shall be 30 percent of the annual income for a lower-income
14 household as set forth in Section 6932 on January 1st of each year for the following
15 household sizes:

- 16 (A) For all one-bedroom units, for a household of two persons;
- 17 (B) For all two-bedroom units, for a household of three persons;
- 18 (C) For all three-bedroom units, for a household of four persons;
- 19 (D) For all four-bedroom units, for a household of five persons.

20 (((21))) (28) "Maximum purchase price" shall mean the maximum purchase
21 price that a household of moderate income can afford to pay for an owned unit based on an
22 annual payment for all housing costs of 33 percent of the combined household annual net
23 income, a 10 percent down payment, and available financing, for the following household
24 sizes:

- 25 (A) For all one-bedroom units, for a household of two persons;

1 (B) For all two-bedroom units, for a household of three persons;

2 (C) For all three-bedroom units, for a household of four persons;

3 (D) For all four-bedroom units, for a household of five persons.

4 (29) "Net addition of gross square feet of entertainment space" shall mean
5 gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by,
6 or primarily serving, entertainment use, less the gross floor area in any structure demolished
7 or rehabilitated as part of the proposed entertainment development project that was used
8 primarily and continuously for entertainment, hotel, office, research and development, or retail
9 use and was not accessory to any use other than entertainment, hotel, office, research and
10 development, or retail use, for five years prior to Planning Commission approval of an
11 entertainment development project subject to this Section, or for the life of the structure
12 demolished or rehabilitated, whichever is shorter, so long as such space was subject to this
13 ordinance or the Interim Guidelines.

14 (30) "Net addition of gross square feet of hotel space" shall mean gross floor
15 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily
16 servicing, hotel use, less the gross floor area in any structure demolished or rehabilitated as
17 part of the proposed hotel development project that was used primarily and continuously for
18 entertainment, hotel, office, research and development, or retail use and was not accessory to
19 any use other than entertainment, hotel, office, research and development, or retail use, for
20 five years prior to Planning Commission approval of a hotel development project subject to
21 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter, so
22 long as such space was subject to this ordinance or the Interim Guidelines.

23 (((22))) (31) "Net addition of gross square feet of office space" shall mean
24 gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by,
25 or primarily serving, office use, less the gross floor area in any structure demolished or

1 rehabilitated as part of the proposed office development project ((space)) that was used
2 primarily and continuously for entertainment, hotel, office, research and development or, retail
3 use and was not accessory to any use other than entertainment, hotel, office, research and
4 development, or retail use for five years prior to Planning Commission approval of an office
5 development project subject to this Section, or for the life of the structure demolished or
6 rehabilitated, whichever is shorter.

7 (32) "Net addition of gross square feet of research and development space"
8 shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be
9 occupied by, or primarily serving, research and development use, less the gross floor area in
10 any structure demolished or rehabilitated as part of the proposed research and development
11 project that was used primarily and continuously for entertainment, hotel, office, research and
12 development, or retail use and was not accessory to any use other than entertainment, hotel,
13 office, research and development, or retail use, for five years prior to Planning Commission
14 approval of a research and development project subject to this Section, or for the life of the
15 structure demolished or rehabilitated, whichever is shorter.

16 (33) "Net addition of gross square feet of retail space" shall mean gross floor
17 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily
18 serving, retail use, less the gross floor area in any structure demolished or rehabilitated as
19 part of the proposed retail development project that was used primarily and continuously for
20 entertainment, hotel, office, research and development, or retail use and was not accessory to
21 any use other than entertainment, hotel, office, research and development, or retail use, for
22 five years prior to Planning Commission approval of a retail development project subject to
23 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

1 (((23))) (34) "Office development project" shall mean any new construction,
2 addition, extension, conversion, or enlargement, or combination thereof, of an existing
3 structure which includes any gross square feet of office ((space)) use.

4 (((24))) (35) (A) "Office use" shall mean space within a structure or portion
5 thereof intended or primarily suitable for occupancy by persons or entities which perform,
6 provide for their own benefit, or provide to others at that location services including, but not
7 limited to, the following:

8 (1) ((P))professional, banking((,)); insurance((,)); management((,)); consulting((,));
9 technical((,)); sales((,)); and design; ((or)) and the non-accessory office functions of
10 manufacturing and warehousing businesses((, but excluding)); all uses encompassed within
11 the definition of "office" at Section 219 of this Code; multimedia, software development, web
12 design, electronic commerce, information technology and other computer based technology;
13 all uses encompassed within the definition of "administrative services" as Section 790.106 or
14 Section 890.106 of this Code; all "business or professional services" as proscribed at Section
15 890.108 of this Code excepting only those uses which are limited to the Chinatown Mixed Use
16 District; all "business services," as described at Section 890.11 of this Code which are
17 conducted in space designated for office use under the San Francisco Building Code and
18 which are not excluded pursuant to Subsection B below.

19 (B) Under this ordinance, "office use" shall exclude: retail uses; repair; any business
20 characterized by the physical transfer of tangible goods to customers on the premises;
21 wholesale shipping, receiving and storage; research and development; and design showcases
22 or any other space intended and primarily suitable for display of goods. ((This definition shall
23 include all uses encompassed within the meaning of Planning Code Section 219.))

24 (((25))) (36) "Ordinance" shall mean San Francisco Planning Code Sections
25 313.1 through 313.14.

1 (((26))) (37) "Owned unit" shall mean a unit affordable to qualifying households
2 which is a condominium, stock cooperative, community apartment, or detached single-family
3 home. The owner or owners of an owned unit must occupy the unit as their primary
4 residence.

5 (((27))) (38) "Owner" shall mean the record owner of the fee or a vendee in
6 possession.

7 (((28))) (39) "Rent" or "rental" shall mean the total charges for rent, utilities, and
8 related housing services to each household occupying an affordable unit.

9 (((29))) (40) "Rental unit" shall mean a unit affordable to qualifying households
10 which is not a condominium, stock cooperative, or community apartment.

11 (41) "Research and Development ("R&D") project" shall mean any new
12 construction, addition, extension, conversion, or enlargement, or combination thereof, of an
13 existing structure which includes any gross square feet of R&D use.

14 (42) "Research and development use" shall mean space within any structure
15 or portion thereof intended or primarily suitable for basic and applied research or systematic
16 use of research knowledge for the production of materials, devices, systems, information or
17 methods, including design, development and improvement of products and processing,
18 including biotechnology, which involves the integration of natural and engineering sciences
19 and advanced biological techniques using organisms, cells, and parts thereof for products and
20 services, excluding laboratories which are defined as light manufacturing uses consistent with
21 Section 226 of the Planning Code.

22 (((39))) (43) "Retail development project" shall mean any new construction,
23 addition, extension, conversion, or enlargement, or combination thereof, of an existing
24 structure which includes any gross square feet of retail use.

1 (((30))) (44) "Retail use" shall mean space within any structure or portion
2 thereof intended or primarily suitable for occupancy by:

3 (A) P((p))ersons or entities which supply commodities to customers on the premises
4 including, but not limited to, stores, shops, restaurants, bars, eating and drinking businesses,
5 and the uses defined in San Francisco Planning Code Sections 218 and 220 through 225, and
6 also including all space accessory to such retail use; and

7 (B) All space accessory to such retail use.

8 (((31))) (45) "Section 6932" shall mean Section 6932 of Title 25 of the
9 California Code of Regulations as such section applies to the County of San Francisco.

10 (((32))) (46) "Sponsor" shall mean an applicant seeking approval for
11 construction of a((n office)) development project subject to this Section, such applicants'
12 successors and assigns, and/or any entity which controls or is under common control with
13 such applicant.

14 (((33))) (47) "Stock cooperative" shall be as defined in California Business and
15 Professions Code Section 11003.2.

16 (((34) "Superintendent" shall mean the Superintendent, Bureau of Building
17 Inspection.))

18
19 **SEC. 313.2. FINDINGS.** The Board hereby finds and declares as follows((:)),
20 Large-scale entertainment, hotel, office, research and development, and retail developments
21 in the City and County of San Francisco (hereinafter "City") have attracted and continue to
22 attract additional employees to the City, and there is a causal connection between such
23 developments and the need for additional housing in the City, particularly housing affordable
24 to households of lower and moderate income. ((Office)) Such commercial uses in the City
25 ((are benefited by)) benefit from the availability of housing close by for ((persons employed in

1 such offices close to their place of employment)) their employees. However, the supply of
2 housing units in the City has not kept pace with the demand for housing created by these new
3 employees. Due to this shortage of housing, employers will have difficulty in securing a labor
4 force, and employees, unable to find decent and affordable housing, will be forced to
5 commute long distances, having a negative impact on quality of life, limited energy resources,
6 air quality, social equity, and already overcrowded highways and public transport.

7 There is a low vacancy rate for housing affordable to persons of lower and
8 moderate income. In part, this low vacancy rate is due to factors unrelated to large-scale
9 commercial ((office)) development, such as high interest rates, high land costs in the City,
10 immigration from abroad, demographic changes such as the reduction in the number of
11 persons per household, and personal, subjective choices by households that San Francisco is
12 a desirable place to live. This low vacancy rate is also due in part to large-scale ((office))
13 commercial developments which have attracted and will continue to attract additional
14 employees and residents to the City. Consequently, some of the employees attracted to
15 these ((large office)) developments are competing with present residents for scarce, vacant
16 affordable housing units in the City. Competition for housing generates the greatest pressure
17 on the supply of housing affordable to households of lower and moderate income. In San
18 Francisco, office or retail uses of land generally yield higher income to the owner than
19 housing. Because of these market forces, the supply of these affordable housing units will not
20 be expanded. Furthermore, Federal and State housing finance and subsidy programs are not
21 sufficient by themselves to satisfy the lower and moderate income housing requirements of
22 the City.

23 As demonstrated in the “((Analysis of the OAHPP Formula prepared by the
24 Department of City Planning in November 1994)) Jobs Housing Nexus Analysis” prepared by
25 Keyser Marston Associates, Inc. in June 1997,” construction of new housing units in the City

1 ((has)) decreased to a low of ((500)) 288 units in 1993 compared to an average annual
2 production of ((1,600)) 1,330 units ((over the previous ten)) during the years 1980 through
3 1995. Overall housing production in the City should average ((2,300)) approximately 2,200
4 units a year to keep up with the City's share of regional housing demand.

5 There is a continuing shortage of low- and moderate-income housing in San
6 Francisco. Affordable housing production in the City ((has)) averaged approximately ((350))
7 340 units per year during the ((past 10)) years 1980 through 1995. However, the demand for
8 new affordable housing ((is)) will be approximately 1,300 units per year for the years 2000
9 through 2015. ((The City needs 64,000 new housing units to relieve the City's existing
10 housing shortage of units affordable to low-income households, to reduce overcrowding and
11 unfair costs, and to accommodate persons with special housing needs.))

12 Objective 1, Policy 7 of t((T))he Residence Element of the San Francisco Master
13 Plan calls for the provision of additional housing to accommodate the demands of new
14 residents attracted ((here)) to the City by expanding employment opportunit((y made available
15 by))ies caused by the growth of ((office use)) large-scale commercial activities in the City.

16 ((The City should impose requirements on developers of office projects designed to mitigate
17 the adverse effects of the expanded employment facilitated by such projects.)) Such
18 development projects should assist in meeting the City's housing needs by contributing to the
19 provision of housing. ((To that end, the City Planning Commission is authorized affirmatively
20 to promote the policies of the Residence Element of the San Francisco Master Plan through
21 the imposition of special housing development requirements.))

22 It is desirable to impose the cost of the increased burden of providing housing
23 necessitated by ((such office)) large-scale commercial development projects directly upon the
24 sponsors of ((new)) the development projects ((generating the need through a requirement
25 that the)) by requiring that the project sponsors to contribute land or money to a housing

1 developer ((construct housing)) or pay a fee to the City to subsidize housing development as
2 a condition of the privilege of development and to assist the community in solving those of its
3 housing problems generated by the development.

4 The required housing exaction shall be based upon formula((e))s derived in the
5 report entitled “((The Economic Basis for an Office Housing Production Program in San
6 Francisco,” prepared by Recht, Hausrath & Associates, dated July 19, 1984)) Jobs Housing
7 Nexus Analysis” prepared by Keyser Marston Associates, Inc., dated June, 1997. ((The
8 housing exaction shall also be based on the “Analysis of the OAHPP Formula” prepared by
9 the Department of City Planning dated November 1994, which confirms the present validity of
10 the conclusions reached in the Recht Hausrath report.)) The ((“Analysis of the OAHPP
11 Formula” also)) “Jobs Housing Nexus Analysis” demonstrates the validity of (((1))) the nexus
12 between new, large-scale entertainment, hotel, office, research and development, and retail
13 development and the increased demand for housing in the City, and (((2))) the numerical
14 relationship between ((new office)) such development projects and the formulas for provision
15 of housing set forth in this ordinance.

16 In-lieu fees for new office construction to the City’s Office Affordable Housing
17 Production Program were last increased in 1994 to \$7.05 per square foot, based on the
18 “Analysis of the OAHPP Formula prepared by the Department of City Planning in November
19 1994.” Existing law provides for potential increases to such fees up to 20% annually based on
20 increases to the Average Area Purchase Price Safe Harbor Limitations for New Single-Family
21 Residences for the San Francisco Primary Metropolitan Statistical Area (“PMSA”) published
22 by the Internal Revenue Service.

23 The Internal Revenue Service last published its Average Area Purchase Price Safe
24 Harbor Limitations for New Single-Family Residences for the San Francisco PMSA in 1994. In
25 1998 and again in 2000, the City contracted for an analysis of average area purchase price for

1 the San Francisco PMSA, in lieu of IRS publication of the index. The 2000 report prepared by
2 Vernazza Wolfe Associates for mortgage purposes, which was certified by Orrick, Herrington
3 & Sutcliffe, indicates that the 1999 updated purchase price figures for new construction are
4 \$431,568, a 73.3% increase over the 1994 purchase price of \$248,969.

5 If OAHPP fees had been increased consistent with these increases in the Average
6 Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San
7 Francisco PMSA, the OAHPP in-lieu fee for net new office construction would be \$12.22 per
8 square foot, or approximately 54% of the maximum derived by the "Jobs Housing Nexus
9 Analysis" prepared by Keyser Marston Associates, Inc. in June 1997.

10 Since preparation of the Keyser Marston "Jobs Housing Nexus Analysis," the Bay Area
11 has seen dramatic increases in land acquisition costs for housing, the cost of new housing
12 development and the affordability gap for low to moderate income workers seeking housing.
13 Commute patterns for the region have also changed, with more workers who work outside of
14 San Francisco seeking to live in the City, thus increasing demand for housing and decreasing
15 housing availability.

16 Because the shortage of affordable housing created by ((office)) large-scale
17 commercial development in the City can be expected to continue for many years, it is
18 necessary to maintain the affordability of the housing units constructed by ((office))
19 developers of such projects under this program. In order to maintain the long-term
20 affordability of such housing, the City is authorized to enforce affordability requirements
21 through mechanisms such as shared appreciation mortgages, deed restrictions, enforcement
22 instruments, and rights of first refusal exercisable by the City at the time of resale of housing
23 units built under the program.

24 Objective 8, Policy 2 of the Residence Element of the San Francisco Master
25 Plan encourages the Planning Commission to periodically reassess requirements placed on

1 large-scale commercial development under the Office Affordable Housing Production Program
2 ("OAHPP"), predecessor to the Jobs-Housing Linkage Program. To that end, within 18
3 months following the effective date of this ordinance, the Director of Planning shall report to
4 the Commission, the Board of Supervisors, and the Mayor on the current supply and demand
5 of affordable housing in the City, the status of compliance with this ordinance, and the efficacy
6 of this ordinance in mitigating the City's shortage of affordable housing available to employees
7 working in development projects subject to this ordinance. Thereafter, if in the discretion of
8 the Director of Planning there has been a substantial change in the San Francisco and/or
9 regional economies since the effective date of this ordinance, the Director of Planning may
10 recommend to the Commission, the Board of Supervisors, and the Mayor that this ordinance
11 be amended or rescinded to alleviate any undue burden on commercial development in the
12 City that the ordinance may impose.

13 **SEC. 313.3. APPLICATION.** (a) Where an environmental evaluation
14 application for the development project is filed on or after January 1, 1999, ((T))this ordinance
15 shall apply to:

16 (1) any entertainment development project proposing the net addition of
17 25,000 or more square feet of entertainment space;

18 (2) any hotel development project proposing the net addition of 25,000 or
19 more square feet of hotel space;

20 (3) any office development project((s)) proposing the net addition of 25,000
21 or more gross square feet of office space;

22 (4) any research and development project proposing the net addition of
23 25,000 or more gross square feet of research and development space; and

24 (5) any retail development project proposing the net addition of 25,000 or
25 more square feet of retail space, except as provided by subsection (b)(8) below.

1 (b) This ordinance shall not apply to:

2 (1) Any development project other than a((n office)) development project
3 described in subsection (a) of this Section, including ((that)) those portions of ((an office)) a
4 development project consisting of ((a retail use)) the net addition of gross square feet of any
5 type of space not described in subsection (a) of this Section;

6 (2) ((That)) Those portions of a((n office)) development project described in
7 subsection (a) of this Section located on property owned by the United States or any of its
8 agencies or leased by the United States or any of its agencies for a period in excess of 50
9 years, with the exception of such property not used exclusively for a governmental purpose;

10 (3) ((That)) Those portions of a((n office)) development project described in
11 subsection (a) of this Section located on property owned by the State of California or any of its
12 agencies, with the exception of such property not used exclusively for a governmental or
13 educational purpose;

14 (4) ((That)) Those portions of a((n office)) development project described in
15 subsection (a) of this Section located on property under the jurisdiction of the San Francisco
16 Redevelopment Agency or the Port of San Francisco where the application of this ordinance
17 is prohibited by California or local law;

18 (5) Any office development project approved by the Planning Commission
19 prior to August 18, 1985 that was not subject to the Interim Guidelines; or

20 (6) Any office development project approved by the Planning Commission
21 prior to August 18, 1985 that was subject to the Interim Guidelines. If the action of the
22 Planning Commission affecting such office development project is thereafter modified,
23 superseded, vacated, or reversed by the Board of ((Permit)) Appeals, the Board of
24 Supervisors, or by court action in a manner affecting the amount of housing required under
25

1 the Interim Guidelines, the permit application on remand to the Planning Commission shall
2 remain subject to the Interim Guidelines.

3 (7) Any major phase or development project in Mission Bay North or South to
4 the extent application of this ordinance would be inconsistent with the Mission Bay North
5 Redevelopment Plan and Interagency Cooperation Agreement or the Mission Bay South
6 Redevelopment Plan and Interagency Cooperation Agreement, as applicable.

7 (8) Any (i) free-standing retail use, encompassed in the definition of
8 "pharmacy" as proscribed in Section 790.48(b) and which does not exceed more than 50,000
9 square feet of retail or other space; or (ii) any free-standing retail use encompassed in the
10 definition of "general grocery" proscribed in Section 790.102(a), and which does not exceed
11 more than 75,000 square feet of retail or other space; or (iii) any mixed-use space consisting
12 of residential space and pharmacy retail space not exceeding 50,000 square feet, or general
13 grocery retail space not exceeding 75,000 square feet. For purposes of this section, the term
14 "free standing" shall mean an independent building or structure used exclusively by a single
15 use and any accessory uses, and that is not part of a larger development project on the same
16 environmental evaluation application.

17 **SEC. 313.4. IMPOSITION OF HOUSING REQUIREMENT.** (a) The ((City))
18 Planning Department or the ((City)) Planning Commission shall impose a condition((s)) on the
19 approval of an application((s)) for ((office)) a development project((s covered by)) subject to
20 this ordinance in order to mitigate the impact on the availability of housing which will be
21 caused by the employment facilitated by ((the proposed office development)) that project.
22 The condition((s)) shall require that the applicant pay or contribute land suitable for housing to
23 a housing developer to construct housing or pay an in-lieu fee to the City Controller which
24 shall thereafter be used exclusively for the development of housing affordable to households
25 of lower or moderate income.

1 (b) Prior to either the Department's or the Commission's approval of a
2 building or site permit for a((n office)) development project subject to this ordinance, the
3 Department shall issue a notice complying with Planning Code Section 306.3 setting forth its
4 initial determination of the net addition of gross square feet of ((office space)) each type of
5 space subject to this ordinance.

6 (c) Any person may appeal the initial determination by delivering an appeal
7 in writing to the Department within 15 days of such notice. If the initial determination is not
8 appealed within the time allotted, the initial determination shall become a final determination.
9 If the initial determination is appealed, the Commission shall schedule a public hearing prior to
10 the approval of the development project by the Department or the Commission to determine
11 the net addition of gross square feet of ((office space)) each type of space subject to this
12 ordinance. The public hearing may be scheduled separately or simultaneously with a hearing
13 under ((City)) Planning Code Sections 306.2, 309(h), 314.5, or a Discretionary Review
14 hearing under San Francisco Municipal Code Part III, Section 26. The Commission shall
15 make a final determination of the net addition of gross square feet of each type of space
16 subject to this ordinance at the hearing.

17 (d) The final determination of the net addition of gross square feet of ((office
18 space)) each type of space subject to this ordinance shall be set forth in the conditions of
19 approval of any building or site permit application approved by the Department or the
20 Commission. The Director of Planning shall notify the ((Superintendent)) Director of Building
21 Inspection and the Director of the Mayor's Office of Housing that a((n office)) development
22 project is subject to this ordinance at the time the Department or the Commission approves
23 the building or site permit for the ((office)) development project.

24 (e) In the event that the Department or the Commission takes action affecting
25 any ((office)) development project subject to this ordinance and such action is thereafter

1 modified, superseded, vacated, or reversed by the Board of ((Permit)) Appeals, the Board of
2 Supervisors, or by court action, the permit application for such ((office)) development project
3 shall be remanded to the Commission to determine whether the proposed project has been
4 changed in a manner which affects the calculation of the amount of housing required under
5 this ordinance and, if so, the Commission shall revise the housing requirement imposed on
6 the permit application in compliance with this ordinance within 60 days of such remand and
7 notify the sponsor in writing of such revision or that a revision is not required.

8 (f) The sponsor shall supply all information to the Department and the
9 Commission necessary to make a determination as to the applicability of this ordinance and
10 the number of gross square feet of ((office space)) each type of space subject to this
11 ordinance.

12 (g) The sponsor o((r))f any ((office)) development project subject to this
13 ordinance shall have the option of:

14 (1) Contributing a sum or land of value at least equivalent ((equal)) to ((or
15 greater than)) the in-lieu fee according to the formulas set forth in Section 313.6 to one or
16 more housing developers who will use the funds or land to construct housing units pursuant to
17 Section 313.5 for each type of space subject to this ordinance; or

18 (2) Paying an in-lieu fee to the Controller according to the formula set forth in
19 Section 313.6 for each type of space subject to this ordinance; or

20 (3) Combining the above options pursuant to Section 313.7 for each type of
21 space subject to this ordinance.

22 **SEC. 313.5. COMPLIANCE THROUGH PAYMENT TO HOUSING**

23 **DEVELOPER.**

24 (a) If the sponsor elects to pay a sum or contribute land of value at least equivalent to the in-
25

1 lieu fee to one or more housing developers to meet the requirements of this ordinance, the
2 housing developer(((s))) or developers shall be required to construct at least the number of
3 housing units determined by the following formulas for each type of space proposed as part of
4 the development project and subject to this ordinance:

5
6 Net Addition Gross Sq. Ft. Entertainment Space × .000140 = Housing Units

7 Net Addition Gross Sq. Ft. Hotel Space × .000110 = Housing Units

8 Net Addition Gross Sq. Ft. Office Space × ((.000386)),000161 = Housing Units

9 Net Addition Gross Sq. Ft. R&D Space × .000200 = Housing Units

10 Net Addition Gross Sq. Ft. Retail Space × .000140 = Housing Units

11
12 ((Sixty-two percent of those)) The housing units required to be constructed under the
13 above formula must be affordable to qualifying households continuously for 50 years. If the
14 sponsor elects to contribute to more than one distinct housing development under this
15 Section, the sponsor shall not receive credit for its monetary contribution to any one
16 development in excess of the amount of the in-lieu fee, as adjusted under Section 313.6,
17 multiplied by the number of units in such housing development.

18 (b) Within one year of the final determination under Section 313.4(c) or a
19 revised final determination under Section 313.4(e), or prior to the issuance by the
20 ((Superintendent)) Director of Building Inspection of the first site or building permit for a((n
21 office)) development project subject to this ordinance, whichever occurs first, the sponsor
22 shall submit to the Director of Planning, with a copy to the Director of the Mayor's Office of
23 Housing:

24 (1) A written housing development plan identifying the housing project(((s)))
25 or projects to receive funds or land from the sponsor and the proposed mechanism for

1 enforcing the requirement that ((62 percent of)) the housing units constructed will be
2 affordable to qualifying households for 50 years; and

3 (2) A certification that the sponsor has made a binding commitment to
4 contribute an amount of money or land of value at least ((to one or more housing
5 developers))) equivalent to ((or greater than)) the amount of the in-lieu fee that would
6 otherwise be required under Section 313.6 to one or more housing developers and that the
7 housing developer(((s))) or developers shall use such funds or land to develop the housing
8 subject to this Section.

9 (3) A self-contained appraisal report as defined by the Uniform Standards of
10 Professional Appraisal Practice prepared by an M.A.I. appraiser of the fair market value of any
11 land to be contributed by the sponsor to a housing developer. The date of value of the
12 appraisal shall be the date on which the sponsor submits the housing development plan and
13 certification to the Director of Planning.

14 If the sponsor fails to comply with these requirements within one year of the final
15 determination or revised final determination, it shall be deemed to have elected to pay the in-
16 lieu fee under Section 313.6 to comply with this ordinance. In the event that the sponsor fails
17 to pay the in-lieu fee within the time required by Section 313.6, the ((Superintendent)) Director
18 of Building Inspection shall deny any and all site or building permits or certificates of
19 occupancy for the ((office)) development project until the Director of Planning notifies the
20 ((Superintendent)) Director of Building Inspection and the Director of the Mayor's Office of
21 Housing that such payment has been made or land contributed, and the Director of Planning
22 shall immediately initiate lien proceedings against the sponsor's property pursuant to Section
23 313.9 to recover the fee.

24 (c) Within 30 days after the sponsor has submitted a written housing
25 development project plan and, if necessary, an appraisal to the Director of Planning and the

1 Director of the Mayor's Office of Housing under ((Part)) subsection (b) of this Section, the
2 Director of Planning shall notify the sponsor in writing of his or her initial determination as to
3 whether the plan and appraisal are ((is)) in compliance with this Section, publish the initial
4 determination in the next Planning Commission calendar, and cause a public notice to be
5 published in an official newspaper of general circulation stating that such housing
6 development plan has been received and stating the Director of Planning's initial
7 determination. In making the initial determination for an application where the sponsor elects
8 to contribute land to a housing developer, the Director of Planning shall consult with the
9 Director of Property and include within his or her initial determination a finding as to the fair
10 market value of the land proposed for contribution to a housing developer. Within 10 days
11 after such written notification and published notice, the sponsor or any other person may
12 request a hearing before the Commission to contest such initial determination. If the Director
13 of Planning receives no request for a hearing within such 10-day period, the determination of
14 the Director of Planning shall become a final determination. Upon receipt of any timely
15 request for hearing, the Director of Planning shall schedule a hearing before the Commission
16 within 30 days. The scope of the hearing shall be limited to the compliance of the housing
17 development plan and appraisal with this Section, and shall not include a challenge to the
18 amount of the housing requirement imposed on the ((office)) development project by the
19 Department or the Commission. At the hearing, the Commission may either make such
20 revisions ((of)) to the Director of Planning's initial determination as it may deem just, or
21 confirm the Director of Planning's initial determination. The Commission's determination shall
22 then become a final determination, and the Director of Planning shall provide written notice of
23 the final determination to the sponsor, the Director of the Mayor's Office of Housing, and to
24 any person who timely requested a hearing of the Director of Planning's determination. The
25 Director of Planning shall also provide written notice to the ((Superintendent)) Director of

1 Building Inspection and the Director of the Mayor's Office of Housing that the housing units to
2 be constructed pursuant to such plan are subject to this ordinance.

3 (d) In making a determination as to whether a sponsor's housing
4 development plan complies with this Section, the Director of Planning and the Commission
5 shall credit to the sponsor any excess Interim Guideline credits or excess credits ((which)) that
6 the sponsor elects to apply against its housing requirement. The remaining housing units
7 required shall be subject to the requirements of ((Part)) subsection (a) of this Section.

8 (e) ((With respect to office development projects receiving a project
9 authorization from the Commission under Planning Code Section 322 after January 1, 1990,
10 p))Prior to the issuance by the ((Superintendent)) Director of Building Inspection of the first
11 site or building permit for a((n office)) development project subject to this Section, the sponsor
12 must:

13 (1) Provide evidence to the Director of Planning in writing that it has paid in
14 full the sum or transferred title of the land required by ((Part)) subsection (a) of this Section to
15 one or more housing developers;

16 (2) Notify the Director of Planning that construction of the housing units has
17 commenced, evidenced by:

18 (A) The City's issuance of site and building permits for the entire housing
19 development project,

20 (B) Written authorization from the housing developer and the construction
21 lender that construction may proceed,

22 (C) An executed construction contract between the housing developer and a
23 general contractor, and

24 (D) The issuance of a performance bond enforceable by the construction
25 lender for 100 percent of the replacement cost of the housing project; and

1 (3) Provide evidence satisfactory to the Director of Planning that ((62 percent
2 of)) the units required to be constructed will be affordable to qualifying households for 50
3 years through an enforcement mechanism approved by the Director of Planning pursuant to
4 ((Parts)) subsections (b) through (d) of this Section.

5 ((With respect to office development projects receiving a project authorization
6 before January 1, 1990, the sponsor shall be required to comply with conditions (1) through
7 (3) above prior to the issuance by the Superintendent of the first certificate of occupancy for
8 the office development project.)) The ((Superintendent)) Director of Building Inspection shall
9 provide notice in writing to the Director of Planning and the Director of the Mayor's Office of
10 Housing at least five business days prior to issuance of the first site or building permit((, or, in
11 the case of projects approved before January 1, 1990, the first certificate of occupancy,)) for
12 any ((office)) development project for which the sponsor elects to pay a sum or contribute land
13 to one or more housing developers. If the Director of Planning notifies the ((Superintendent))
14 Director of Building Inspection within the five business days that the conditions of (1) through
15 (3) of this subsection have not been met, the ((Superintendent)) Director of Building
16 Inspection shall refuse any and all site or building permits or certificates of occupancy for the
17 ((office)) development project. If the Director of Planning notifies the ((Superintendent))
18 Director of Building Inspection that the sponsor has complied with these conditions or fails to
19 respond within five business days, the ((Superintendent)) Director of Building Inspection shall
20 not disapprove a site or building permit or certificate of occupancy pursuant to this Section.
21 Any failure of the ((Superintendent)) Director of Building Inspection or the Director of Planning
22 to give any notice under this Section shall not relieve a sponsor from compliance with this
23 Section. Where the ((Superintendent)) Director of Building Inspection issues any site or
24 building permit or certificate of occupancy for the ((office)) development project in error, the
25 Director of Planning shall initiate lien proceedings against the ((office)) development project

1 under Section 313.9, and the ((Superintendent)) Director of Building Inspection shall revoke
2 any permit or certificate issued in error and refuse any site or building permit or certificate of
3 occupancy until the sponsor has complied with this Section.

4 (((f)) Within three months of the effective date of this ordinance, the Director is
5 hereby directed to prepare and publish written guidelines by which compliance with this
6 Section shall be determined.))

7 (((g))) (f) Where the sponsor elects to pay a sum or contribute land of value
8 equivalent to the in-lieu fee to one or more housing developers, the sponsor's responsibility
9 for completing construction of and maintaining the affordability of housing units constructed
10 ceases from and after the date on which:

11 (1) The conditions of (1) through (3) of ((Part)) subsection (e) of this Section
12 have been met; and

13 (2) A mechanism has been approved by the Director of Planning to enforce
14 the requirement that ((62 percent of)) the housing units constructed will be affordable to
15 qualifying households continuously for 50 years.

16
17 **SEC. 313.6. COMPLIANCE THROUGH PAYMENT OF IN-LIEU FEE.**

18 (a) Commencing on ((January 1, 1995)) March 11, 1999, the amount of the fee which may be
19 paid by the sponsor of a((n office)) development project subject to this ordinance in lieu of
20 developing and providing the housing required by Section 313.5 shall be ((computed as
21 follows)) determined by the following formulas for each type of space proposed as part of the
22 development project and subject to this ordinance:

23
24 Net Addition Gross Sq. Ft. Entertainment Space × \$10.57 = Total Fee

25 Net Addition Gross Sq. Ft. Hotel Space × \$8.50 = Total Fee

1 Net Addition Gross Sq. Ft. Office Space × ((\$7.05)) \$11.34 = Total Fee

2 Net Addition Gross Sq. Ft. Research and development × \$7.55 = Total Fee

3 Net Addition Gross Sq. Ft. Retail Space × \$10.57 = Total Fee

4
5 (b) Commencing on January 1, 2002, the amount of the fee which may be paid by the
6 sponsor of a development project subject to this ordinance in lieu of developing and providing
7 the housing required by Section 313.5 shall be determined by the following formulas for each
8 type of space proposed as part of the development project and subject to this ordinance:

9 Net Addition Gross Sq. Ft. Entertainment Space × \$13.95 = Total Fee

10 Net Addition Gross Sq. Ft. Hotel Space × \$11.21 = Total Fee

11 Net Addition Gross Sq. Ft. Office Space × \$14.96 = Total Fee

12 Net Addition Gross Sq. Ft. R & D space × \$9.97 = Total Fee

13 Net Addition Gross Sq. Ft. Retail Space × \$13.95 = Total Fee

14
15 Such in-lieu fee shall be revised effective January 1st of each year thereafter,
16 ((commencing on January 1, 1996,)) by the percentage increase or decrease in the Average
17 Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San
18 Francisco Primary Metropolitan Statistical Area ("PMSA") established by the Internal Revenue
19 Service ("IRS") since January 1st of the previous year; provided, however, that in the event
20 that said percentage increase exceeds 20 percent, the in-lieu fee shall be increased by 20
21 percent, and the difference between the percentage increase in the Average Area Purchase
22 Price and 20 percent shall be carried over and added to the in-lieu fee adjustment for the
23 following calendar year. In the event that the IRS does not adjust the above figure within a
24 14-month period, the Commission ((may)) shall authorize and certify a study for adjusting the
25 last published IRS figure, to be effective until the IRS revises the figure. In making a

1 determination as to the amount of the fee to be paid, the Director of Planning shall credit to
2 the sponsor any excess Interim Guideline credits or excess credits which the sponsor elects
3 to apply against its housing requirement.

4 (((b))) (c) ((With respect to office development projects approved after
5 January 1, 1990, p))Prior to the issuance by the ((Superintendent)) Director of Building
6 Inspection of the first site or building permit for a((n office)) development project subject to this
7 ordinance, the sponsor must notify the Director of Planning and the Director of the Mayor's
8 Office of Housing in writing that it has either (i) satisfied the conditions of Section 313.5(e) or
9 (ii) paid in full the sum required by this Section to the Controller. ((With respect to office
10 development projects approved before January 1, 1990, if the sponsor has not satisfied
11 conditions (1) through (3) of Section 313.5(e), the sponsor shall be required to notify the
12 Director in writing that it has paid in full the sum required by this Section prior to the issuance
13 by the Superintendent of the first certificate of occupancy for the office development project.))
14 If the sponsor fails by the applicable date to demonstrate to the Director of Planning that the
15 sponsor ((payment)) has satisfied the conditions of Section 313.5(e) or paid the applicable
16 sum in full to the Controller, the Director of Building Inspection ((been made in full, the
17 Superintendent)) shall deny any and all site or building permits or certificates of occupancy for
18 the ((office)) development project until the Director of Planning notifies the ((Superintendent))
19 Director of Building Inspection and the Director of the Mayor's Office of Housing that such
20 payment has been made, and the Director of Planning shall immediately initiate lien
21 proceedings against the sponsor's property pursuant to Section 313.9 to recover the fee.

22 (((c))) (d) Upon payment of the fee in full to the Controller and upon request
23 of the sponsor, the Controller shall issue a certification that the fee has been paid. The
24 sponsor shall present such certification to the Director of Planning and the Director of the
25 Mayor's Office of Housing prior to the issuance by the ((Superintendent)) Director of Building

1 Inspection of the first site or building permit or certificate of occupancy for the ((office))
2 development project. The ((Superintendent)) Director of Building Inspection shall provide
3 notice in writing to the Director of Planning and the Director of the Mayor's Office of Housing
4 at least five business days prior to issuing the first site or building permit or certificate of
5 occupancy for any ((office)) development project subject to this Section. If the Director of
6 Planning notifies the ((Superintendent)) Director of Building Inspection and the Director of the
7 Mayor's Office of Housing within such time that the sponsor has not complied with the
8 provisions of this Section, the ((Superintendent)) Director of Building Inspection shall deny any
9 and all site or building permits or certificates of occupancy. If the Director of Planning notifies
10 the ((Superintendent)) Director of Building Inspection and the Director of the Mayor's Office of
11 Housing that the sponsor has complied with this Section, or fails to respond within five
12 business days, a site or building permit or certificate of occupancy shall not be disapproved
13 pursuant to this Section. Any failure of the ((Superintendent)) Director of Building Inspection
14 or the Director of Planning to give any notice under this Section shall not relieve a sponsor
15 from compliance with this Section. Where the ((Superintendent)) Director of Building
16 Inspection issues any site or building permit or certificate of occupancy for the ((office))
17 development project in error, or where a sponsor fails for any reason to pay the in-lieu fee to
18 the Controller in compliance with this Section prior to the ((Superintendent)) Director of
19 Building Inspection's issuance of the first site or building permit or certificate of occupancy for
20 the ((office)) development project, the Director of Planning shall immediately initiate lien
21 proceedings against the ((office)) development project under Section 313.9 to recover the fee,
22 and the ((Superintendent)) Director of Building Inspection shall revoke any permit or certificate
23 issued in error and refuse any site or building permit or certificate of occupancy until the
24 sponsor has complied with this Section.

25

1 **SEC. 313.7. COMPLIANCE THROUGH COMBINATION OF PAYMENT TO**
2 **HOUSING DEVELOPER AND PAYMENT OF IN-LIEU FEE.** The sponsor of a((n office))
3 development project subject to this ordinance may elect to satisfy its housing requirement by
4 a combination of paying money or contributing land to one or more housing developers under
5 Section 313.5 and paying a partial amount of the in-lieu fee to the Controller under Section
6 313.6. In the case of such election, the sponsor must pay a sum such that each gross square
7 foot of net addition of ((office space)) each type of space subject to this ordinance is
8 accounted for in either the payment of a sum or contribution of land to one or more housing
9 developers or the payment of a fee to the Controller. The housing units constructed by a
10 housing developer must conform to all requirements of this ordinance, including, but not
11 limited to, the proportion that must be affordable to qualifying households as set forth in
12 Section 313.5. All of the requirements of Sections 313.5 and 313.6 shall apply, including the
13 requirements with respect to the timing of issuance of site and building permits and
14 certificates of occupancy for the ((office)) development project and payment of the in-lieu fee.

15
16 **SEC. 313.8. TRANSFER OF HOUSING CREDITS.** (a) In determining
17 whether a sponsor is in compliance with this ordinance, the Director of Planning or the
18 Commission shall credit against all or part of a housing requirement for any sponsor of any
19 ((office)) development project credits, which shall be denominated "excess Interim Guidelines
20 credits," obtained by the sponsor which:

21 (1) Have received final approval under the Interim Guidelines as of August
22 18, 1985, but which have not been applied to a((n office)) development project because the
23 ((office)) development project has not been approved by the Director of Planning or the
24 Commission or which are in excess of those credits required to satisfy the housing
25 requirement under the Interim Guidelines; or

1 (2) Have received preliminary approval prior to August 18, 1985, received
2 final approval within six months of August 18, 1985, and are in excess of those credits
3 required to satisfy the housing requirement under the Interim Guidelines or this ordinance.
4 This six-month period may be extended for a maximum of two six-month periods where,
5 based upon evidence submitted by the sponsor, the Director of Planning or Planning
6 Commission determine within six months of August 18, 1985, or within a six-month extension,
7 that (1) there is good cause for an extension or an additional extension, (2) the failure to
8 obtain final approval of credits is beyond the sponsor's immediate control, and (3) the sponsor
9 has made a reasonable effort to obtain final approval of credits.

10 Excess Interim Guideline credits may be applied against a sponsor's housing
11 requirement under this ordinance on the basis of two and three tenths (2.3) excess Interim
12 Guideline credits against one housing unit required to be provided under Section 313.5.
13 Excess Interim Guideline Credits may be applied against a sponsor's housing requirement
14 under this ordinance only for those projects obtaining project authorizations as defined in
15 Planning Code Section 320(h) on or before February 28, 1999 ((in the approval period ending
16 within 34 months following the effective date of this ordinance)). No excess Interim Guideline
17 Credits may be applied against a sponsor's housing requirement for any project authorization
18 issued after that date. The Director of Planning shall notify the Director of the Mayor's Office
19 of Housing of credits applied to the sponsor's housing requirement under this Section
20 313.8(a).

21 (b) In making their determination as to whether a sponsor's housing
22 development plan complies with Sections 313.5, 313.6, and 313.7, the Director of Planning or
23 the Commission shall credit to the sponsor any housing units constructed or in-lieu fee paid in
24 excess of that required to satisfy the housing unit requirement under this ordinance, which
25 shall be denominated "excess credits." The Director of Planning or the Commission shall

1 permit the transfer of any excess credits received under this ordinance to be applied to satisfy
2 all or part of a housing requirement for any other ((office)) development project that is subject
3 to the provisions of this ordinance, and shall notify the Director of the Mayor's Office of
4 Housing of such permitted transfer. Each excess credit shall be equivalent to one housing
5 unit as computed under Section 313.5((, or a payment of \$18,264.25 if the sponsor elects to
6 pay a sum to a housing developer under Section 313.5 or an in-lieu fee under Section 313.6.
7 The sum of \$18,264.25 shall be revised effective January 1st of each year concurrently and in
8 accordance with the same procedures used for the revision of the in-lieu fee in Section
9 313.6)). Excess credits may be obtained only under Section 313.11 or if:

10 (1) They have been obtained after the commencement of construction of
11 housing in compliance with all of the requirements of Section 313.5, the payment of a sum or
12 contribution of land to one or more housing developers in compliance with all of the
13 requirements of Section 313.5, or payment of an in-lieu fee to the Controller in compliance
14 with all of the requirements of Section 313.6 or a combination of the above under Section
15 313.7. Compliance with these sections requires construction of the total number of housing
16 units required, the percentage of such units which must be affordable to qualifying
17 households, and the establishment of a mechanism approved by the Director of Planning to
18 enforce the requirement that ((62 percent of)) the units constructed will be affordable for 50
19 years to qualifying households; and

20 (2) The excess credits result from either:

21 (A) Abandonment of the ((office)) development project that received approval
22 by the Commission as evidenced by cancellation of the site or building permit or the site or
23 building permit application; or
24
25

1 (B) A decrease in the net addition of gross square feet of ((office space))
2 each type of space subject to this ordinance as a result of Commission, Board of ((Permit))
3 Appeals, Board of Supervisors, or court action taken after:

4 (i) The amount of such net addition of gross square feet of each type of
5 space subject to this ordinance has been determined by the Commission under Section
6 313.4; and

7 (ii) The sponsor has paid a sum to one or more housing developers and
8 construction of the housing units has commenced under Section 313.5, or the sponsor has
9 paid an in-lieu fee under Section 313.6, or a combination of the above under Section 313.7.

10 Excess credits may be applied against a sponsor's housing requirement under
11 this ordinance only for those applications for a building or site permit filed within three years of
12 the date on which the excess credits are issued. The date on which such excess credits are
13 issued shall be the earlier of the sponsor's abandonment of the ((office)) development project
14 under which the credits were obtained as evidenced by the cancellation of the site or building
15 permit or the site or building permit application, the commencement of construction of each of
16 the housing units under Section 313.5, or the payment of the in-lieu fee under Section 313.6
17 with respect to such credits. No excess credits may be applied against a sponsor's housing
18 requirement for any application for a building or site permit filed after that date.

19 (c) If the number of excess credits or excess Interim Guidelines credits held
20 by a sponsor is not sufficient to satisfy the entire housing requirement of that sponsor's
21 ((office)) development project subject to the provisions of this ordinance, including, but not
22 limited to the requirement that a percentage of the housing units must be affordable to
23 qualifying households, then the balance of the housing requirement shall be satisfied in
24 accordance with the provisions of this ordinance, including the requirement set forth in Section
25 313.5 that ((62 percent of)) the units constructed must be affordable to qualifying households.

1 (d) Excess credits and excess Interim Guideline credits may be transferred
2 from one sponsor to another only if:

3 (1) The Director of Planning has been notified in writing of the proposed
4 transfer of the credits;

5 (2) The Director of Planning has determined that the transfer or sponsor has
6 obtained the credits through meeting the requirements of either ((Part)) subsection (a) or (b)
7 of this Section; and

8 (3) The transfer is made in writing, a true copy of which is provided to the
9 Director of Planning.

10 (e) The City makes no warranties that any excess credits or excess Interim
11 Guidelines credits will be marketable during the period in which this ordinance is in effect or
12 thereafter. The City makes no warranties that an applicant possessing excess credits or
13 excess Interim Guidelines credits is entitled to Commission approval of a((n office))
14 development project subject to this ordinance.

15
16 **SEC. 313.9. LIEN PROCEEDINGS.** (a) A sponsor's failure to comply with the
17 requirements of Sections 313.5, 313.6 and 313.7 shall constitute cause for the City to record a
18 special assessment lien against the ((office)) development project in the sum of ((\$18,264.25
19 for each housing unit)) the in-lieu fee required under this ordinance, as adjusted under Section
20 313.6. ((The amount of the lien per unit shall be revised annually according to the formula in
21 Section 313.6.))

22 (b) The Director of Planning shall initiate proceedings to impose the special
23 assessment lien by preparing a preliminary report notifying the sponsor of a special
24 assessment hearing to confirm such report by the Board of Supervisors at least 10 days
25 before the date of the hearing. The report to the sponsor shall contain the sponsor's name, a

1 description of the sponsor's ((office)) development project, a description of the parcels of real
2 property to be encumbered as set forth in the Assessor's Map Books for the current year, a
3 description of the alleged violation of this ordinance, and shall fix a time, date, and place for
4 hearing. The Director of Planning shall cause this report to be mailed to each owner of record
5 of the parcels of real property to be assessed.

6 (c) At the hearing fixed for consideration of the report, the Board of
7 Supervisors shall hear the report with any objections of the owners of the parcels liable to be
8 assessed. The Board of Supervisors may make such revisions, corrections or modifications
9 of the report as it may deem just. In the event that the Board of Supervisors is satisfied with
10 the correctness of the report as submitted or as revised, corrected or modified, it shall ((be))
11 confirm((ed)) it as a final report. Any delinquent account may be removed from the report by
12 payment in full at any time prior to confirmation of a final report. The Director of Planning shall
13 cause the confirmed report to be verified in form sufficient to meet recording requirements.

14 (d) Upon confirmation of the report by the Board of Supervisors, the
15 delinquent charges contained therein shall constitute a special assessment against the parcel
16 or parcels used in the ((office)) development project. Each such assessment shall be
17 subordinate to all existing special assessment liens previously imposed upon such parcels
18 and paramount to all other liens except those for State, County, and municipal taxes with
19 which it shall be upon parity. The lien shall continue until the assessment and all interest due
20 and payable thereon are paid to the Tax Collector of the City. All laws applicable to the levy,
21 collection, and enforcement of municipal taxes shall be applicable to said special assessment.

22 (e) The Director of Planning shall cause the confirmed and verified report to
23 be recorded in the County Recorder's Office and the special assessment lien on each parcel
24 of property described in said report shall carry additional charges for administrative expenses
25 of \$50 or 10 percent of the amount of the unpaid balance, whichever is greater, plus interest

1 at a rate of 1-½ percent per full month compounded monthly from the date of the recordation
2 of the lien on all charges due.

3 (f) The Director of Planning shall file a certified copy of each confirmed final
4 report with the Controller and Tax Collector within 10 days after confirmation of the report,
5 whereupon it shall be the duty of said officers to add the amount of said assessment to the
6 next regular bill for taxes levied against said parcel or parcels of land for municipal purposes,
7 and thereafter said amount shall be collected at the same time and in the same manner as the
8 City ((and County of San Francisco))'s taxes are collected, and shall be subject to the same
9 procedure under foreclosure and sale in case of delinquency as provided for property taxes of
10 the City ((and County of San Francisco)). Except for the release of lien recording fee
11 authorized below, all sums collected by the Tax Collector pursuant to this ordinance shall be
12 held in trust by the Treasurer and deposited in the Citywide Affordable Housing Fund
13 established in Section 313.12.

14 (g) On payment to the Tax Collector of the special assessment, the Tax
15 Collector shall cause to be recorded a release of lien with the County Recorder, and from the
16 sum collected pursuant to ((Part)) subsection (a) of this Section, shall pay to the county
17 recorder a recording fee of ((\$6.00)) \$11.00.

18 (h) Any notice required to be given to a sponsor or owner shall be sufficiently
19 given or served upon the sponsor or owner for all purposes hereunder if personally served
20 upon the sponsor or owner or if deposited, postage prepaid, in a post office letterbox
21 addressed in the name of the sponsor or owner at the official address of the sponsor or owner
22 maintained by the Tax Collector for the mailing of tax bills or, if no such address is available,
23 to the sponsor at the address of the ((office)) development project.

1 **SEC. 313.10. IN-LIEU FEE REFUND WHEN BUILDING PERMIT EXPIRES**
2 **PRIOR TO COMPLETION OF WORK AND COMMENCEMENT OF OCCUPANCY.** In the
3 event a building permit expires prior to completion of the work on and commencement of
4 occupancy of a((n office)) development project so that it will be necessary to obtain a new
5 permit to carry out any development, the obligation to comply with this ordinance shall be
6 cancelled, and any in-lieu fee previously paid to the Controller shall be refunded. If and when
7 the sponsor applies for a new permit, the procedures set forth in this ordinance regarding
8 construction of housing or payment of the in-lieu fee shall be followed.

9
10 **SEC. 313.11. ONE-TIME FEE PAYMENT.** In the event that a((n office))
11 development project for which housing units have been constructed or an in-lieu fee has been
12 fully paid is demolished or converted to ((non-office)) a use or uses not subject to this
13 ordinance prior to the expiration of its estimated useful life, the City shall (((1))) either grant to
14 the sponsor excess credits transferable under Section 313.8 for a portion of any housing units
15 actually constructed and for which a certificate of occupancy has been issued, or (((2))) refund
16 to the sponsor a portion of the amount of an in-lieu fee paid. The portion of excess credits
17 granted or the fee refunded shall be determined on a pro rata basis according to the ratio of
18 the remaining useful life of the project at the time of demolition or conversion in relation to its
19 total useful life. For purposes of this ordinance, the useful life of a((n office)) development
20 project shall be 50 years.

21
22 **SEC. 313.12. CITYWIDE AFFORDABLE HOUSING FUND.** All monies
23 contributed pursuant to Sections 313.6 or 313.7 or assessed pursuant to Section 313.9 shall
24 be deposited in the special fund maintained by the Controller called the Citywide Affordable
25 Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated in accordance with

1 law to be used solely to increase the supply of housing affordable to qualifying households
2 subject to the conditions of this Section. The Fund shall be administered and expended by
3 the Director of the Mayor's Office of Housing, who shall have the authority to prescribe rules
4 and regulations governing the Fund which are consistent with this ordinance. No portion of
5 the Fund may be used, by way of loan or otherwise, to pay any administrative, general
6 overhead, or similar expense of any entity, except that ~~(((\$100,000))~~ \$10,000 from the Fund
7 shall be allocated by the Director within six months following the effective date of this
8 ordinance to ~~((update the Recht Hausrath report dated July 1984 and the Department of City
9 Planning report dated November 1994 referred to in Section 313.2 to show the relationship
10 between office and other commercial development and housing demand))~~ pay consultants for
11 conducting research necessary to support the "Jobs Housing Nexus Analysis," prepared by
12 Keyser Marston Associates, Inc., and dated June 1997.

13
14 **SEC. 313.13. DIRECTOR OF PLANNING'S EVALUATION.** Within 18 months
15 following the effective date of this ordinance, the Director of Planning shall report to the
16 Commission, the Board of Supervisors, and the Mayor ~~((the results of the study to be financed
17 by \$100,000 from the Affordable Housing Fund as set forth in Section 313.12 and recommend
18 whether the Office Affordable Housing Production Program Ordinance should be amended.
19 The Director shall also report on an annual basis))~~ on the current supply and demand of
20 affordable housing in the City, the status of compliance with this ordinance, and the efficacy of
21 this ordinance in mitigating the City's shortage of affordable housing available to employees
22 working in ~~((office))~~ development projects subject to this ordinance. Thereafter, if in the
23 discretion of the Director of Planning there has been a substantial change in the San
24 Francisco and/or regional economies since the effective date of this ordinance, the Director of
25 Planning may recommend to the Commission, the Board of Supervisors, and the Mayor that

1 this ordinance be amended or rescinded to alleviate any undue burden on commercial
2 development in the City that the ordinance may impose.

3
4 **SEC. 313.14. PARTIAL INVALIDITY AND SEVERABILITY.** If any provision of
5 this ordinance, or its application to any ((office)) development project or to any geographical
6 area of the City, is held invalid, the remainder of the ordinance, or the application of such
7 provision to other ((office)) development projects or to any other geographical areas of the
8 City, shall not be affected thereby.

9 Section 2. Chapter II, Article III of the San Francisco Planning Code is hereby
10 amended by adding Section 313.15 to read as follows:

11
12 **SEC. 313.15. STUDY.** No later than July 1, 2001, and every five years thereafter, the
13 Director of Planning shall complete a study to determine the demand for housing created by
14 various types of commercial development in San Francisco and, based on the study,
15 recommend to the Board of Supervisors changes in the requirements for housing construction
16 and in lieu fees imposed on commercial development in this ordinance if necessary to help
17 meet that demand.

18
19
20 APPROVED AS TO FORM:

RECOMMENDED:

21 LOUISE H. RENNE, City Attorney

22
23
24 By: A Pearson
25 Audrey Williams Pearson
Deputy City Attorney

By: _____
Gerald G. Green
Director of Planning

SUPERVISOR AMMIANO
BOARD OF SUPERVISORS



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 000276

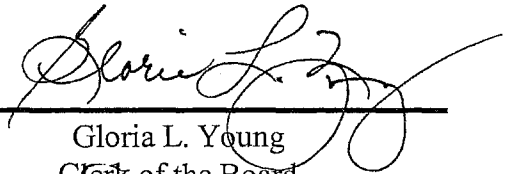
Date Passed:

Ordinance amending Article III, Chapter II, Part II of the San Francisco Municipal Code (Planning Code) by amending Sections 313, 313.1, 313.2, 313.3, 313.4, 313.5, 313.6, 313.7, 313.8, 313.9, 313.10, 313.11, 313.12, 313.13, and 313.14, to rename the "Office Affordable Housing Production Program" as the "Jobs-Housing Linkage Program," to apply the program to all new and expanded hotel space of at least 25,000 square feet, to all new and expanded entertainment space of at least 25,000 square feet, to all new and expanded retail space of at least 25,000 square feet, and to all new and expanded research and development space of at least 25,000 square feet; to set forth the number of housing units to be constructed for each type of development subject to this Ordinance; to increase the number of housing units and fees for office developments; and by adding Section 313.15 to require a study every five years determining the demand for housing created by commercial development.

- February 12, 2001 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Leno, Peskin, Sandoval, Yee
Excused: 1 - Newsom
- February 12, 2001 Board of Supervisors — PASSED ON FIRST READING AS AMENDED
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Leno, Peskin, Sandoval, Yee
Excused: 1 - Newsom
- February 20, 2001 Board of Supervisors — FINALLY PASSED
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Leno, Peskin, Sandoval, Yee
Excused: 1 - Newsom

File No. 000276

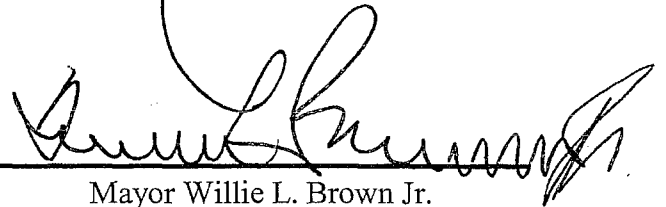
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on February 20, 2001 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

FEB 23 2001

Date Approved



Mayor Willie L. Brown Jr.