[Amending the Jobs Housing Linkage Program Ordinance.]

Ordinance amending the San Francisco Planning Code by amending Section 313.5 to change the formula used in the Jobs Housing Linkage Program to determine the number of affordable housing units a housing developer is required to build if an office developer elects to comply with the Jobs Housing Linkage Program Ordinance by payment of money or land to a housing developer.

Note: Additions are single-underline italics Times New Roman; deletions are strikethrough italics Times New Roman. Board amendment additions are double underlined. Board amendment deletions are strikethrough normal.

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

Section 1. Findings. In February, 2001, the Board enacted the "Jobs Housing Linkage Program." This program, formerly known as the Office Affordable Housing Production Program, imposes the cost of the increased burden of providing housing necessitated by large-scale commercial development projects directly upon the sponsors of the development projects. The Jobs Housing Linkage Program requires that the sponsors of large-scale commercial developments contribute land or money to a housing developer or pay a fee to the City to subsidize housing development as a condition of the privilege of development.

The required housing exaction in the Jobs-Housing Linkage Program is based upon formulas derived in the report entitled "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc., dated June, 1997. The "Jobs Housing Nexus Analysis" demonstrates the validity of the nexus between new, large-scale entertainment, hotel, office, research and development, and retail development and the increased demand for housing in the City, and the numerical relationship between such development projects and the formulas for provision of housing set forth in the Jobs Housing Linkage Program.
Under the February, 2001 Jobs Housing Linkage Program ordinance, if the sponsor of an office development elects to comply with the Jobs Housing Linkage Program by payment of money or land to a housing developer, the housing developer must build 161 units of affordable housing units for every 100,000 square feet of net additional office space. As demonstrated in the Jobs Housing Nexus Analysis, this number represents approximately thirty-one percent of the number of affordable housing units needed to offset the demand in affordable housing created by the development.

This ordinance increases the number of affordable housing units required to 27 units for every 100,000 square feet of net additional office space. This number represents approximately fifty-two percent of the number of affordable housing units needed to offset the demand in affordable housing created by the development. The number of units required by this ordinance is well within the maximum number of units needed to offset the demand in affordable housing created by the development, as demonstrated in the Jobs Housing Nexus Analysis.

Section 2. The San Francisco Planning Code is hereby amended by amending Section 313.5, to read as follows:

SEC. 313.5. COMPLIANCE THROUGH PAYMENT TO HOUSING DEVELOPER.

(a) If the sponsor elects to pay a sum or contribute land of value at least equivalent to the in-lieu fee to one or more housing developers to meet the requirements of this ordinance, the housing developer or developers shall be required to construct at least the number of housing units determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance:

Net Addition Gross Sq. Ft. Entertainment Space $\times 0.000140 = \text{Housing Units}$

Net Addition Gross Sq. Ft. Hotel Space $\times 0.000110 = \text{Housing Units}$

Net Addition Gross Sq. Ft. Office Space $\times 0.000164 + 0.000270 = \text{Housing Units}$
Net Addition Gross Sq. Ft. R&D Space × .000200 = Housing Units

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

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

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

(1) A written housing development plan identifying the housing project or projects to receive funds or land from the sponsor and the proposed mechanism for enforcing the requirement that the housing units constructed will be affordable to qualifying households for 50 years; and

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

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

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

(c) Within 30 days after the sponsor has submitted a written housing
development project plan and, if necessary, an appraisal to the Director of Planning and the
Director of the Mayor's Office of Housing under subsection (b) of this Section, the Director of
Planning shall notify the sponsor in writing of his or her initial determination as to whether the
plan and appraisal are in compliance with this Section, publish the initial determination in the
next Planning Commission calendar, and cause a public notice to be published in an official
newspaper of general circulation stating that such housing development plan has been
received and stating the Director of Planning's initial determination. In making the initial
determination for an application where the sponsor elects to contribute land to a housing
developer, the Director of Planning shall consult with the Director of Property and include
within his or her initial determination a finding as to the fair market value of the land proposed
for contribution to a housing developer. Within 10 days after such written notification and
published notice, the sponsor or any other person may request a hearing before the
Commission to contest such initial determination. If the Director of Planning receives no request for a hearing within such 10-day period, the determination of the Director of Planning shall become a final determination. Upon receipt of any timely request for hearing, the Director of Planning shall schedule a hearing before the Commission within 30 days. The scope of the hearing shall be limited to the compliance of the housing development plan and appraisal with this Section, and shall not include a challenge to the amount of the housing requirement imposed on the development project by the Department or the Commission. At the hearing, the Commission may either make such revisions to the Director of Planning's initial determination as it may deem just, or confirm the Director of Planning's initial determination. The Commission's determination shall then become a final determination, and the Director of Planning shall provide written notice of the final determination to the sponsor, the Director of the Mayor's Office of Housing, and to any person who timely requested a hearing of the Director of Planning's determination. The Director of Planning shall also provide written notice to the Director of Building Inspection and the Director of the Mayor's Office of Housing that the housing units to be constructed pursuant to such plan are subject to this ordinance.

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

(e) Prior to the issuance by the Director of Building Inspection of the first site or building permit for a development project subject to this Section, the sponsor must:
(1) Provide evidence to the Director of Planning in writing that it has paid in full the sum or transferred title of the land required by subsection (a) of this Section to one or more housing developers;

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

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

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

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

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

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

The Director of Building Inspection shall provide notice in writing to the Director of Planning and the Director of the Mayor's Office of Housing at least five business days prior to issuance of the first site or building permit for any development project for which the sponsor elects to pay a sum or contribute land to one or more housing developers. If the Director of Planning notifies the Director of Building Inspection within the five business days that the conditions of (1) through (3) of this subsection have not been met, the Director of Building Inspection shall refuse any and all site or building permits or certificates of occupancy for the development project. If the Director of Planning notifies the Director of Building

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Inspection that the sponsor has complied with these conditions or fails to respond within five business days, the Director of Building Inspection shall not disapprove a site or building permit or certificate of occupancy pursuant to this Section. Any failure of the Director of Building Inspection or the Director of Planning to give any notice under this Section shall not relieve a sponsor from compliance with this Section. Where the Director of Building Inspection issues any site or building permit or certificate of occupancy for the development project in error, the Director of Planning shall initiate lien proceedings against the development project under Section 313.9, and the Director of Building Inspection shall revoke any permit or certificate issued in error and refuse any site or building permit or certificate of occupancy until the sponsor has complied with this Section.

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

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

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

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By: Deputy City Attorney
Ordinance amending the San Francisco Planning Code by amending Section 313.5 to change the formula used in the Jobs Housing Linkage Program to determine the number of affordable housing units a housing developer is required to build if an office developer elects to comply with the Jobs Housing Linkage Program Ordinance by payment of money or land to a housing developer.

November 5, 2001  Board of Supervisors — PASSED ON FIRST READING
Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

November 13, 2001  Board of Supervisors — FINALLY PASSED
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Yee
Absent: 1 - Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 13, 2001 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Willie L. Brown Jr.