



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: DECEMBER 11, 2014

Project Name: **Revisions to Development Impact Fees, incorporating new Citywide Nexus Analysis**

Case Number: 2014.0966T

Initiated by: San Francisco Planning Department

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Reviewed by: **Adam Varat, Senior Planner**

Recommendation: **Adopt Amendments to the Planning Code**

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PLANNING CODE AMENDMENTS

The proposed ordinance includes proposed changes to various sections of Article IV of the Planning Code, which hosts all development impact fees, including downtown fees, area plan fees, and citywide fees. The Ordinance proposes to amend the Planning Code to adopt the San Francisco Citywide Nexus Analysis (Nexus Analysis) supporting existing development fees, including fees in the Downtown and other Area Plans, to cover impacts of residential and commercial development in four infrastructure areas: recreation and open space; pedestrian and streetscape improvements; childcare; and bicycle infrastructure. The Ordinance also proposes to make findings, including findings required by State law, related to all of the fees in Article IV generally and certain development fees supported by the Nexus Analysis specifically.

Currently, Article IV fees, especially in the Area Plans are supported by Area-specific analyses. The development of the Citywide Nexus analysis responds to two separate goals to: (1) provide a common analysis to support fees in any geographic area of the City where the City imposes them; and (2) update the support for various fees under certain program administration requirements detailed in Section 410 of the Planning Code. In addition, this legislation proposes minor amendments to the administration of various impact fee programs to facilitate their administration. This Ordinance **does not** propose changes to the rate of fees; expand the geographic scope of any fees; change the limitations on the geographic locations in which specific fees are expended; or modify the overall goals of the various impact fee programs. Following is a more detailed overview.

No change proposed:

Development Impact Fee Rates – No change

This Ordinance does not propose to increase the rate of existing development impact fees or create new development impact fees. Findings based on the new Citywide Nexus Study justify the imposition of various existing development impact fees at the existing established rates. The City will continue to index development impact fees annually to reflect cost inflation, according to the process described in Article IV of the Planning Code.

Effective January 1, 2015, most Development Impact Fees will increase by 5.00% in accordance with San Francisco Planning Code Article 4, Section 409(b).

Geographies Related to Area Plan Impact Fee Programs – No change

Although the nexus study was completed on a Citywide basis, this legislation does NOT change either (1) the geographic scope of any fees e.g. no fees will be charged in geogographic areas not currently subject to a fee; or (2) the existing limitations that fees collected from projects in certain Area Plans be spent within the geography of that Area Plan. For example development impact fees collected through the Eastern Neighborhoods Infrastructure Program must be expended within those specific plan areas within their current boundaries.

Proposed amendments:

Citywide Nexus Study – update findings for established impact fees

The California Mitigation Fee Act, California Government Code Section 66000 et seq. (the Fee Act) establishes requirements and principles for local jurisdictions to impose certain fees as a condition of development approval. One of the requirements is that the local jurisdiction establish a reasonable relationship or “nexus” between the impacts of new development and the proposed fee. While not all of the fees covered by Article IV are necessarily subject to the Fee Act, the City has concluded that, in most instances, establishing a nexus for any fee imposed by the City as a condition of development is prudent practice. Development impact fees are common among California cities and are one widely accepted way to fund a variety of infrastructure improvements. In addition, the City uses a variety of other funding sources to meet its infrastructure needs.

The majority of the “area plan impact fees”, including Rincon Hill (2005), Market and Octavia, Eastern Neighborhoods, Visitation Valley and Balboa Park were first established in 2008. For each area plan, the City conducted separate analyses and made separate findings to support the fees. Per Article IV of the Planning Code, the City updated the nexus analysis that supports the various fees.¹ In an effort to reduce the administrative burden for the various impact fee

¹ The City retained AECOM to conduct a San Francisco Infrastructure Level of Service Analysis, attached as Exhibit E; and, based on the results of that Analysis, to conduct a standards-based Nexus Analysis consistent with State law.

programs and to establish a consistent methodology, the City elected to complete a citywide nexus analysis that collated and built on various existing nexus studies. The Nexus Analysis developed a consistent standards-based methodology for most existing impact fees. This Citywide analysis will facilitate the City's future administration of impact fees, including completing the five year reporting and updates required by Planning Code Section 410.

The Citywide nexus analysis is intended to meet the requirements of the Mitigation Fee Act. It focuses on new growth's connection to open space, recreational facilities, complete streets including pedestrian and bicycle improvements, and childcare facilities. This analysis measures the need for community infrastructure generated by new growth per new resident or worker. The Citywide nexus analysis was completed at this time because the City Planning Code requires that all nexus studies be updated on a five year basis (Section 410) and because there is a State requirement to verify the nexus established for development impact fees. This study includes a Nexus Analysis to verify most impact fees in Article VI of the Planning Code except those pertaining to affordable housing, community stabilization and the Citywide Transportation Development Impact Fee. A transportation nexus analysis is currently underway.

The citywide nexus standard is generally based on the average demand for services based on the City's ability to commit to funding for the planning period; this standard may be higher than the existing level of service but may not fully account for the community infrastructure projects identified in advanced planning work. The results of the nexus analysis provides a ceiling or maximum fee supported by the analysis for each infrastructure type. Specific development impact fees recover no more than 95% of the total nexus amount, and in some cases recover less based on program specific policy priorities established through the community based planning processes.

The analysis confirms that, consistent with the findings in the ordinances, the existing and proposed impact fees are supported by a Mitigation Fee Act-type nexus analysis. **Accordingly the Ordinance proposes that the Board adopt the Citywide Nexus Analysis and make corresponding Findings for the various development impact fees.**

Remove Library from all Impact Fee Programs

The Ordinance also proposes to remove library materials and facilities from Area Plan impact fees. Currently each fee program is required to direct a small percentage (averaging approximately 1 or 2%) to the SF Public Library. However, at the end of this Fiscal Year the Branch Library Improvement Program (BLIP), will be fully funded. During the course of the Branch Library Improvement Program 16 existing libraries were renovated and 8 new libraries were constructed. The Library has a robust source of revenue for material acquisition. The Area Plan Impact Fees generate a very small amount of revenue for libraries, given the low level of program dollars currently allocated to library facilities. This results in a high rate of administrative costs for library development impact fees. Further, community members have consistently expressed an interest in prioritizing completion of important transportation and open space projects in concert with new development. The Planning Department in coordination with Library staff, the Eastern Neighborhoods and Market and Octavia CACs, and the IPIC have

concluded that area plan development impact fees should be prioritized for transit, complete streets, open space and recreation facilities, and childcare. **Accordingly the Ordinance includes amendments to remove Library expenditures from all area plan impact fees.**

All revenues that are currently directed towards the library facilities are proposed to be re-directed to Complete Streets expenditures in each plan area. *In most plan areas streetscape improvements have considerable funding gaps and are less competitive for other public funding sources. Staff presented the proposal to move the funds to streetscapes to the Eastern Neighborhoods and Market and Octavia CAC in the Spring of 2014, CAC members did not comment on this change. Public comments are discussed in more detail in a the Public Comments section.*

Create consistent expenditure categories across the various plan areas

Area Plan development impact fees are collected in one fund and expended across multiple expenditure categories based on the percentages identified in the Planning Code. The Planning Department's implementation team, in coordination with the IPIC, insures that each program achieves the legislated expenditure targets on a five year basis. So in a given year, while the City may allocate a disproportionate amount of the development impact fees in a Plan Area Fund to one expenditure category, over a five year period, the City will have allocated no more than the targeted percentage of impact fee revenue on a given expenditure category.

The Planning Department thinks that it will benefit the process **to use consistent language across the various area plan development impact fee programs**. Currently the Market and Octavia Plan Area details expenditures into 10 categories, while other plan areas describe the same range of potential types of expenditures using only 3 or 4 categories. The table below illustrates the relationship of expenditure categories across three plan areas. After several years of administering the Development Impact Fee program in coordination with the various CACs and the Interagency Plan Implementation Committee (IPIC), the Planning Department has determined that administration of the programs would benefit from a consistent description of the expenditure categories. This ordinance proposes a uniform set of 5 expenditure categories for all plan areas (see below). This re-organization of expenditure categories does not change which infrastructure projects are eligible for impact fee funding, however it offers the same language across the various programs. The Citywide Nexus Study is generally organized according to the proposed expenditure categories.

This system will help to insure that everyone involved in fee expenditures – including community members, planners, project managers, accountants, budget directors, plan managers, and advocates, in whichever agency or community group -- *will better understand what projects are eligible for impact fee funding for each expenditure category.* This increased clarity will facilitate the implementation of the infrastructure projects.

Current Market and Octavia	Current Eastern Neighborhoods	Current Balboa Park	Proposed Categories for ALL Plan Areas
Parks	Open space and recreational facilities	Parks, Plazas, Open Space	Recreation and Open Space
Park Improvements			
Transportation	Transit, streetscape and public realm improvements	Transit	Transit ²
Vehicle		Streets	Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Infrastructure
Pedestrian			
Greening			
Bicycle			
Childcare	Community facilities (child care and library materials)	Community facilities and services/Other	Childcare
Library Materials			Library
Program Administration	<i>(derived as a percentage of total revenue)</i>	<i>(derived as a percentage of total revenue)</i>	Program Administration

The Nexus Study includes a description of projects eligible for each expenditure category. Note that the ordinance proposes some amendments to the description of “Program Administration” so that it applies consistently across all area plan impact fees. For all Area Plan development impact fees, no more than 5% of development impact fee revenue can be dedicated to Program Administration.

Note that with the exception of dedicating previous Library allocations towards Complete Streets, the percentage of revenue allocated to each category is not proposed to change for any of the Area Plan impact fees. For example the total percent of funds allocated to Complete Streets expenditures is currently 42.2% and will increase by roughly 2% to 44% of total residential development impact fee expenditures.

Currently some area plan development impact fees, do not include clearly delineated expenditure categories by percentage, including Rincon Hill, Visitation Valley, and the Market and Octavia Downtown Residential Special Use District FAR bonus program. In order to improve administration of the program, this ordinance proposes adding explicit funding percentages for each area plan impact fee.

² Note that Transit was not covered in the Citywide Nexus Analysis, but it is the subject of a separate study currently underway.

Process for Area Plan Development Impact Fee Fund Allocations and Expenditures

Since 2008, the Area Plan development impact fees have been administered consistently, in coordination with the CACs, Interagency Plan Implementation Committee (IPIC), Planning Commission (CPC), Board of Supervisors (BOS), and Mayor. First, the CACs and IPIC develop recommendations each year through the Fall, which are then presented to the CPC and BOS land use committee in early winter. At the start of the new year, various implementing agencies load the projects into their annual budget requests, consistent with the IPIC report. As with all capital expenditures, the Board's and Mayor's approval of the annual budget, constitutes final approval of allocation of the area plan development impact fees.

This ordinance proposes some amendments to some area plan development impact fee sections in the Planning Code, to more accurately describe the fund allocation process.

Monitoring Program

In order to create clarity and facilitate administration of the monitoring program, the description of monitoring requirements was removed from individual fee programs and moved to Section 409 of the Planning Code, which already addressed monitoring issues. Section 409 applies to all development impact fees included in Article VI of the Planning Code.

Changes introduced since the initiation hearing

- Some minor changes to the percentage allocations for some fees (Rincon Hill, Eastern Neighborhoods, and the Van Ness and Market Downtown Residential Special Use District) to be consistent with the nexus analysis, proposed expenditure plans, and priorities established in the area plans.
- Establishing a separate account for affordable housing dollars collected as part of the Eastern Neighborhoods Community Improvements Fee (Section 423).
- Text amendments clarifying that only MUR districts within Soma are subject to the provision that allocates a portion of the impact fees to Soma affordable housing projects, as originally intended. This text change clarifies for that for MUR districts outside of Soma, impacts fees are to be distributed like any other portion of Eastern Neighborhoods.
- Clarifying that payment of development impact fees must be at the same time, but in no event later than the issuance of the first construction document. Nearly every development impact fee in Article 4 of the Planning Code requires such fee be paid to the Department of Building Inspection "prior" to the issuance of the first construction document. While this language is generally understood by staff and project sponsors to be "immediately prior to," the language does not specifically stipulate how much prior to issuance such fees may be paid, which can cause undue confusion and technical difficulties if/when a project wants to pay development impact fees far in advance. This proposed amendment will necessitate two further steps:
 - (1) The Planning Commission directs staff, in consultation with the City Attorney's Office to add to the legislation amendments to all other sections of Article IV that relate to the

timing of fee payments to make the same language changes in those Sections.

Amendments should be made to all sections in Article IV relating to the timing of fee payments, including but not limited to: Sections: 411.3(b); 412.6; 413.7(c); 414.8(b); 416.3(d); 417.3(d); 418.3(g); 419.3(c); 420.3(d); 421.3(f); 422.3(e); 423.3(e); 424.6.2(e); 424.7.2(e); 425; 426; 427; 428; 429.3(d)(1); 429.3(d)(2)(B); 429.3(d)(2)(C); 430(d).

- (2) the Planning Code amendments will necessitate corresponding amendments to Building Code Section 107A.13. Staff will work with the Department of Building Inspection to move those corresponding amendments forward as soon as possible to avoid any inconsistency between the two Codes.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION AND BASIS FOR RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

- The legislation will improve the administration of the Planning Code.
- The legislation maintains and furthers the policy goals of several community planning efforts including Market and Octavia, Eastern Neighborhoods, Balboa Park, Visitacion Valley, and Rincon Hill.
- The Infrastructure and Nexus Study enable further capital planning and policy work around delivering infrastructure to meet existing and future community needs.

ENVIRONMENTAL REVIEW

The proposed Ordinance has been determined to be not defined as a project under CEQA Guidelines Sections 15738 and 15060(c)(2) because it does not result in a physical change in the environment.

PUBLIC COMMENT

The Planning Department has not received public comment on this legislation.

- Staff made presentations to both the Market and Octavia and Eastern Neighborhoods CAC in the Spring of 2014 summarizing this proposal.
- In October of 2014 – The Planning Commission held a hearing and initiated adoption hearings on this item.
- In November of 2014 – staff presented this legislation to the Eastern Neighborhoods CAC for discussion.

One member of the CAC asked several questions about this legislation at the November meeting and by e-mail. Many of the questions revolved around potentially expanding the program by raising the fee rates, expanding the geography subject to the fees, or adding new expenditure categories. Some community members suggested that transportation and affordable housing impact fee rates should be increased.

This legislation has two goals, one to update the Nexus analysis as required by State and local law and second to make minor modifications to the legislation around the administration of the program. Any changes to the scope or scale of the program would require at a minimum additional community planning and an updated feasibility analysis. Adoption of this ordinance does not preclude further community planning or policy work around expanding the existing fee program. The Planning Department in coordination with SFMTA is working on a few initiatives around infrastructure planning that may result in expansions to the development impact fee program, including the Transportation Sustainability Program, the Central SOMA plan, and the Mayor's Housing Working group which is considering updates to the affordable housing program. These projects will be vetted with the community and brought to you in at a future hearing.

RECOMMENDATION: Recommendation of Approval with modifications

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Proposed Ordinance - *revised from initiation*



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution Planning Code Text Change DECEMBER 11, 2014

Project Name: Adopting Nexus Analysis for Certain Development Fees
Case Number: 2014.0966T
Staff Contact: Kearstin Dischinger
Kearstin.Dischinger@sfgov.org, 415-558-6284
Reviewed by: Adam Varat, Senior Planner
Recommendation: **Recommend Approval**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO ADOPT THE SAN FRANCISCO CITYWIDE NEXUS ANALYSIS SUPPORTING EXISTING DEVELOPMENT FEES, INCLUDING FEES IN THE DOWNTOWN AND OTHER AREA PLANS, TO COVER IMPACTS OF RESIDENTIAL AND COMMERCIAL DEVELOPMENT IN THE AREAS OF RECREATION AND OPEN SPACE; PEDESTRIAN AND STREETSCAPE IMPROVEMENTS; CHILDCARE FACILITIES; AND BICYCLE INFRASTRUCTURE; MAKING FINDINGS RELATED TO ALL OF THE FEES IN ARTICLE IV GENERALLY AND CERTAIN DEVELOPMENT FEES SUPPORTED BY THE NEXUS ANALYSIS SPECIFICALLY.

WHEREAS, the City of San Francisco's Planning Code includes several development impact fees, that support Pedestrian and Streetscape improvements, Childcare facilities, Recreation and Open Space facilities, Bicycle Improvements, and program administration;

WHEREAS, Planning Code section 410 calls for the City to conduct a comprehensive five-year evaluation of all development fees and development impact requirements; and,

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to on October 2, 2014 and initiated the legislation; and,

WHEREAS, the proposed Ordinance has been determined to be not defined as a project under CEQA Guidelines Sections 15738 and 15060(c)(2) because it does not result in a physical change in the environment; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff and other interested parties, including a duly noticed informational hearing on December 4, 2014; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The City and County of San Francisco must update the nexus analysis for all impact fees in good faith and consistent with all State and local requirements.
2. This ordinance allows the City to further implement all area plans, including implementing infrastructure improvements to support new growth.
3. The Planning Commission directs staff, in consultation with the City Attorney's Office to add to the legislation amendments to all other sections of Article IV that relate to the timing of fee payments to clarify that payments must be made at the same time as and no later than the issuance by DBI of the first construction document. This language shall replace current language that states that such fees shall be paid "prior to" the issuance of the first construction document. Amendments should be made to all sections in Article IV including this language, including but not limited to: Sections: 411.3(b); 412.6; 413.7(c); 414.8(b); 416.3(d); 417.3(d); 418.3(g); 419.3(c); 420.3(d); 421.3(f); 422.3(e); 423.3(e); 424.6.2(e); 424.7.2(e); 425; 426; 427; 428; 429.3(d)(1); 429.3(d)(2)(B); 429.3(d)(2)(C); 430(d).
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the Objectives and Policies of the General Plan:

BALBOA PARK STATION AREA PLAN

OBJECTIVE 5.1 CREATE A SYSTEM OF PUBLIC PARKS, PLAZAS AND OPEN SPACES IN THE PLAN AREA.

OBJECTIVE 2.1 EMPHASIZE TRANSIT IMPROVEMENTS THAT SUPPORT THE NEIGHBORHOOD.

CENTRAL WATERFRONT AREA PLAN

OBJECTIVE 4.1 IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN CENTRAL WATERFRONT

OBJECTIVE 5.1 PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS AND VISITORS

OBJECTIVE 7.1 PROVIDE ESSENTIAL COMMUNITY SERVICES AND FACILITIES

EAST SOMA (SOUTH OF MARKET) AREA PLAN

OBJECTIVE 4.1 IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN THE SOUTH OF MARKET

OBJECTIVE 5.1 PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS AND VISITORS

OBJECTIVE 7.1 PROVIDE ESSENTIAL COMMUNITY SERVICES AND FACILITIES

MISSION AREA PLAN

OBJECTIVE 4.1 IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN THE MISSION

OBJECTIVE 5.1 PROVIDE PUBLIC PARKS AND OPEN SPACES THAT MEET THE NEEDS OF RESIDENTS, WORKERS AND VISITORS

OBJECTIVE 7.1 PROVIDE ESSENTIAL COMMUNITY SERVICES AND FACILITIES

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 4.1 Provide safe and comfortable public rights-of-way for pedestrian use and improve the public life of the neighborhood.

OBJECTIVE 5.1 Improve public transit to make it more reliable, attractive, convenient, and responsive to increasing demand.

RINCON HILL AREA PLAN

OBJECTIVE 4.1 CREATE A VARIETY OF NEW OPEN SPACES AND COMMUNITY FACILITIES FOR ACTIVE AND PASSIVE RECREATION TO MEET THE NEEDS OF A SIGNIFICANT NEW RESIDENTIAL POPULATION.

OBJECTIVE 4.3 LINK THE AREA VIA PEDESTRIAN IMPROVEMENTS TO OTHER PUBLIC OPEN SPACES SUCH AS THE WATERFRONT PROMENADE AT THE FOOT OF THE HILL AND PLANNED OPEN SPACES IN THE TRANSBAY DISTRICT.

The proposed ordinance will enable the City to continue to administer development impact fee programs and implement infrastructure improvements as called for in the Area Plans cited above as well as several other area plans and general plan elements.

1. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:
 1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative impact on neighborhood serving retail uses and will not impact opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character. The new units would be built within the existing building envelope and therefore would impose minimal impact on the existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have a negative effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an impact on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have a negative impact on the City's Landmarks and historic buildings as the new units would be added under the guidance of local law and policy protecting historic resources, when appropriate.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an impact on the City's parks and open space and their access to sunlight and vistas.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on December 11, 2014.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: December 11, 2014

1 [Planning Code - Adopting Nexus Analysis for Certain Development Fees]

2
3 **Ordinance amending the Planning Code to adopt the San Francisco Citywide Nexus**
4 **Analysis supporting existing development fees, including fees in the Downtown and**
5 **other Area Plans, to cover impacts of residential and commercial development in the**
6 **areas of recreation and open space; pedestrian and streetscape improvements;**
7 **childcare facilities; and bicycle infrastructure; making findings related to all of the fees**
8 **in Article IV generally and certain development fees supported by the Nexus Analysis**
9 **specifically; and making environmental findings and findings of consistency with the**
10 **General Plan and the eight priority policies of Planning Code Section 101.1.**

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.
13 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
14 **Board amendment additions** are in double-underlined Arial font.
15 **Board amendment deletions** are in ~~strikethrough Arial font~~.
16 **Asterisks (* * * *)** indicate the omission of unchanged Code
17 subsections or parts of tables.

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

19 Section 1. Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. ____ and is incorporated herein by reference. The Board of
24 Supervisors hereby affirms this determination.

25 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
3 Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
5 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
6 in Planning Commission Resolution No. _____, and the Board incorporates such reasons
7 herein by reference.

8
9 Section 2. The Planning Code is hereby amended by adding Section 401A and
10 revising Sections 401, 404, 412.1, 414.1, 418.1, 418.5, 420.1, 420.6, 421.1, 421.5, 422.1,
11 422.5, 423.1, 423.5, 424.1, and 424.5 to read as follows:

12
13 **SEC. 401A. FINDINGS.**

14 (a) General Findings. The Board makes the following findings related to the fees imposed
15 under Article IV.

16 (1) Application. The California Mitigation Fee Act, Government Code Section
17 66000 et seq. may apply to some or all of the fees in this Article IV. While the Mitigation Fee Act may
18 not apply to all fees, the Board has determined that general compliance with its provisions is good
19 public policy in the adoption, imposition, collection, and reporting of fees collected under this Article
20 IV. By making findings required under the Act, including the findings in this subsection and findings
21 supporting a reasonable relationship between new development and the fees imposed under this Article
22 IV, the Board does not make any finding or determination as to whether the Mitigation Fee Act applies
23 to all of the Article IV fees.

24 (2) Timing of fee collection. For any of the fees in this Article IV collected prior to
25 the issuance of the certificate of occupancy, the Board of Supervisors makes the following findings set

1 forth in California Government Code Section 66007(b): the Board of Supervisors finds, based on
2 information from the Planning Department in Board File No. _____, that it is appropriate to
3 require the payment of the fees in Article IV at the time of issuance of the first construction document
4 because the fee will be collected for public improvements or facilities for which an account has been
5 established and funds appropriated and for which the City has adopted a proposed construction
6 schedule or plan prior to the final inspection or issuance of the certificate of occupancy or because the
7 fee is to reimburse the City for expenditures previously made for such public improvements or facilities.

8 (3) Administrative fee. The Board finds, based on information from the Planning
9 Department in Board File No. _____, that the City agencies administering the fee will incur
10 costs equaling 5% or more of the total amount of fees collected in administering the funds established
11 in Article IV. Thus, the 5% administrative fee included in the fees in this Article IV do not exceed the
12 cost of the City to administer the funds.

13 (b) Specific Findings: The Board of Supervisors has reviewed the San Francisco Citywide
14 Nexus Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and the San Francisco
15 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
16 Clerk of the Board in File No. _____ and adopts the findings and conclusions of those studies,
17 specifically the sections of those studies establishing levels of service for and a nexus between new
18 development and four infrastructure categories: Recreation and Open Space, Childcare, Streetscape
19 and Pedestrian Infrastructure, and Bicycle Infrastructure. The Board of Supervisors finds that, as
20 required by California Government Code Section 66001, for each infrastructure category analyzed, the
21 Nexus Analysis and Infrastructure Level of Service Analysis: identify the purpose of the fee; identify the
22 use or uses to which the fees are to be put; determine how there is a reasonable relationship between
23 the fee's use and the type of development project on which the fee is imposed; determine how there is a
24 reasonable relationship between the need for the public facility and the type of development project on
25 which the fee is imposed; and determine how there is a reasonable relationship between the amount of

1 the fee and the cost of the public facility or portion of the facility attributable to the development.
2 Specifically, as discussed in more detail in and supported by the Nexus Analysis and Infrastructure
3 Level of Service Analysis the Board adopts the following findings:

4 (1) **Recreation and Open Space Findings:**

5 (A) **Purpose.** The fee will help maintain adequate park capacity required to
6 serve new service population resulting from new development.

7 (B) **Use.** The fee will be used to fund projects that directly increase park
8 capacity in response to demand created by new development. Park and recreation capacity can be
9 increased either through the acquisition of new park land, or through capacity enhancements to
10 existing parks and open space. Examples of how development impact fees would be used include:
11 acquisition of new park and recreation land; lighting improvements to existing parks, which extend
12 hours of operation on play fields and allow for greater capacity; recreation center construction, or
13 adding capacity to existing facilities; and converting passive open space to active open space including
14 but not limited to through the addition of trails, play fields, and playgrounds.

15 (C) **Reasonable relationship:** As new development adds more employment
16 and/or residents to San Francisco, it will increase the demand for park facilities and park capacity. Fee
17 revenue will be used to fund the acquisition and additional capacity of these park facilities. Each new
18 development project will add to the incremental need for recreation and open space facilities described
19 above. Improvements considered in the Nexus Study are estimated to be necessary to maintain the
20 City's effective service standard.

21 (D) **Proportionality.** The new facilities and costs allocated to new
22 development are based on the existing ratio of the City's service population to a conservative estimate
23 of its current recreation and open space capital expenditure to date. The scale of the capital facilities
24 and associated costs are proportional to the projected levels of new development and the existing
25 relationship between service population and recreation and open space infrastructure. The cost of the

1 deferred maintenance required to address any operational shortfall within the City's recreation and
2 open space provision will not be financed by development fees.

3 (2) **Childcare Findings:**

4 (A) **Purpose.** The fee will support the provision of childcare facility needs
5 resulting from an increase in San Francisco's residential and employment population.

6 (B) **Use.** The childcare impact fee will be used to fund capital projects
7 related to infant, toddler, and preschool-age childcare. Funds will pay for the expansion of childcare
8 slots for infant, toddler, and preschool children.

9 (C) **Reasonable Relationship.** New residential and commercial development
10 in San Francisco will increase the demand for infant, toddler and preschool-age childcare. Fee
11 revenue will be used to fund the capital investment needed for these childcare facilities. Residential
12 developments will result in an increase in the residential population, which results in growth in the
13 number of children requiring childcare. Commercial development results in an increase of the
14 employee population, which similarly require childcare near their place of work. Improvements
15 considered in this study are estimated to be necessary to maintain the City's provision of childcare at
16 its effective service standard.

17 (D) **Proportionality.** The new facilities and costs allocated to new
18 development are based on the existing service ratio of the total number of infants, toddler, and
19 preschoolers needing care in San Francisco to the number of spaces available to serve them. The total
20 numbers of children reflect both resident children and non-resident children of San Francisco
21 employees needing care. The scale of the capital facilities and associated costs are directly
22 proportional to the expected levels of new development and the corresponding increase in childcare
23 demands.

1 (3) **Streetscape and Pedestrian Infrastructure Findings:** The infrastructure
2 covered by Pedestrian and Bicycle Infrastructure and Bicycle Infrastructure may be referred to in
3 certain Area Plans collectively as “Complete Streets Infrastructure.”

4 (A) **Purpose.** The primary purpose of the streetscape and pedestrian
5 infrastructure development impact fee is to fund streetscape and pedestrian infrastructure to
6 accommodate the growth in street activity.

7 (B) **Use.** The streetscape infrastructure fees will be used to enhance the
8 pedestrian network in the areas surrounding new development – whether through sidewalk
9 improvements, construction of complete streets, or pedestrian safety improvements.

10 (C) **Reasonable Relationship.** New development in San Francisco will
11 increase the burden on the City’s pedestrian infrastructure. Fee revenue will be used to increase
12 pedestrian infrastructure capacity and facilities. Residential and commercial development will add to
13 the incremental need for streetscape and pedestrian infrastructure. Improvements considered in this
14 study are estimated to be necessary to maintain the City's effective service standard, reflecting the
15 City’s investment to date.

16 (D) **Proportionality.** The fees allocated to new development are based on the
17 existing ratio of the City’s service population to a conservative estimate of its current streetscape and
18 pedestrian infrastructure provision to date – in the form of square feet of sidewalk per thousand service
19 population units. The costs associated with this level of improvement are drawn from the cost per
20 square foot associated with improving sidewalk under the Department of Public Works’ standard
21 repaving and bulbouts cost structure. The scale of the capital facilities and associated costs are directly
22 proportional to the expected levels of new development and the existing relationship between service
23 population and pedestrian infrastructure. The cost of the deferred maintenance required to address any
24 operational shortfall is not allocated to be funded by new development.

1 (4) **Bicycle Infrastructure Findings.** *The infrastructure covered by Pedestrian*
2 *and Bicycle Infrastructure and Bicycle Infrastructure may be referred to in certain Area Plans*
3 *collectively as "Complete Streets Infrastructure."*

4 (A) **Purpose.** *The primary purpose of bicycle infrastructure development*
5 *impact fee is to fund capital improvements to San Francisco's bicycle infrastructure.*

6 (B) **Use.** *The bicycle fee will be used to implement the SFMTA's Bicycle*
7 *Plan set forth in the 2013 Bicycle Strategy. The fee will support development of new premium bike*
8 *lanes, upgraded intersections, additional bicycle parking, and new bicycle sharing program stations.*

9 (C) **Reasonable Relationship.** *New residential and commercial development*
10 *in San Francisco will increase trips in San Francisco, of which a share will travel by bicycle. Fee*
11 *revenue will be used to fund the capital investment needed for these bicycle facilities. Both residential*
12 *and commercial developments result in an increased need for bicycle infrastructure, as residents and*
13 *employees rely on bicycle infrastructure for transportation, and to alleviate strain on other*
14 *transportation modes.*

15 (D) **Proportionality.** *The facilities and costs allocated to new development*
16 *are based on the proportional distribution of the Bicycle Plan Plus investments between existing and*
17 *new service population units. The scale of the capital facilities and associated costs are directly*
18 *proportional to the expected levels of new development and the existing relationship between service*
19 *population and bicycle facility demands.*

20 (5) **Additional Findings.** *The Board finds that the Nexus Analysis establishes the*
21 *fees are less than the cost of mitigation and do not include the costs of remedying any existing*
22 *deficiencies. The City may fund the cost of remedying existing deficiencies through other public and*
23 *private funds. The Board also finds that the Nexus Study establishes that the fees do not duplicate other*
24 *City requirements or fees. Moreover, the Board finds that this fee is only one part of the City's broader*
25

1 funding strategy to address these issues. Residential and non-residential impact fees are only one of
2 many revenue sources necessary to address the City's infrastructure needs.

3
4 **SEC. 401. DEFINITIONS.**

5 In addition to the specific definitions set forth elsewhere in this Article, the following
6 definitions shall govern interpretation of this Article:

7 * * * *

8 "Designated affordable housing zones." For the purposes of implementing the Eastern
9 Neighborhoods Public Benefits Fund, shall mean the Mission NCT defined in Section 736 and
10 ~~the those~~ Mixed Use Residential District defined in Section 841 that are located within the
11 boundaries of either the East Soma or Western Soma Plan Areas.

12 * * * *

13
14 **SEC. 404. PROJECT DEVELOPMENT FEE REPORT; RESOLUTION OF**
15 **DEVELOPMENT FEE DISPUTE; APPEAL TO BOARD OF APPEALS; PUBLIC NOTICE;**
16 **FINDINGS SUPPORTING FEE COLLECTION.**

17 (a) **Project Development Fee Report.** Under Section 107A.13.7 of the San
18 Francisco Building Code, prior to issuance of the building or site permit for a development
19 project subject to any development fees or development impact requirements, the
20 Development Fee Collection Unit at DBI shall prepare and provide to the project sponsor, or
21 any member of the public upon request, a Project Development Fee Report ~~that: (i) identifies~~
22 ~~the development project, (ii) lists the specific development fees or development impact requirements~~
23 ~~that are applicable, (iii) lists the dollar amount of any development fees or the scope of any~~
24 ~~development impact requirement, (iii) states when the development fees are due and payable and the~~

1 *status of payment, and (iv) provides any other relevant information concerning the development fees or*
2 *development impact requirements.*

3 **(b) Resolution of Development Fee or Development Impact Requirement**

4 **Dispute; Appeal to Board of Appeals.** If a dispute or question arises concerning the
5 accuracy of the final Project Development Fee Report, including the calculation of any
6 development fee listed thereon, the dispute shall be resolved or appealed to the Board of
7 Appeals in accordance with Section 107A.13.9 of the San Francisco Building Code. The
8 jurisdiction of the Board shall be strictly limited to determining the accuracy of the Report and
9 the mathematical calculation of the development fee or scope of the physical or "in-kind"
10 requirement. The Board has no jurisdiction to: *(i1)* review the scope or amount of the
11 development fee or requirement established by the Code, *(ii2)* reduce, adjust, or waive a
12 development fee or requirement on the ground that there is no reasonable relationship or
13 nexus between the impact of development and either the amount of the fee charged or the
14 physical requirement, *(3iii)* reduce or waive the development fee or requirement based on
15 housing affordability, duplication of fees, or any other issue related to fairness or equity, or
16 *(4iv)* review the nexus studies that support the development fee or requirement and the City's
17 legal authority to impose it.

18 **(c) Public Notice of the Project Development Fee Report.** Any public notice issued
19 by the Department of an approval action on a development project that is subject to a
20 development fee or a development requirement under this Article shall notify the public of a
21 right to request a copy of the Project Development Fee Report from the Development Fee
22 Collection Unit at DBI. In addition to this notice, DBI shall provide final notice of the availability
23 of the Project Development Fee Report as part of its standard notice of the issuance of a
24 building or site permit for any project and of the right to appeal the accuracy of the Project
25

1 Development Fee Report to the Board of Appeals as part of the underlying building or site
2 permit in accordance with Section 107A.13.9 of the San Francisco Building Code.

3
4 **SEC. 409. CITYWIDE DEVELOPMENT FEE REPORTING REQUIREMENTS AND**
5 **COST INFLATION FEE ADJUSTMENTS.**

6 (a) **Citywide Development Fee and Development Impact Requirements Report.**

7 In coordination with the Development Fee Collection Unit at DBI and the Planning Director,
8 the Controller shall issue a report within 180 days after the end of each even numbered year
9 fiscal year¹, that provides information on all development fees established in the San
10 Francisco Planning Code collected during the prior two fiscal years organized by development
11 fee account and all cumulative monies collected over the life of each development fee
12 account, as well as all monies expended. *The report shall include: (1) a description of the type of*
13 *fee in each account or fund; (2) the beginning and ending balance of the accounts or funds including*
14 *any bond funds held by an outside trustee; (3) the amount of fees collected and interest earned; (4) an*
15 *identification of each public improvement on which fees or bond funds were expended and amount of*
16 *each expenditure; (5) an identification of the approximate date by which the construction of public*
17 *improvements will commence; (6) a description of any inter-fund transfer or loan and the public*
18 *improvement on which the transferred funds will be expended; and (7) the amount of refunds made and*
19 *any allocations of unexpended fees that are not refunded.* The report shall also provide information
20 on the number of projects that elected to satisfy development impact requirements through
21 the provision of "in-kind" physical improvements, including on-site and off-site BMR units,
22 instead of paying development fees. The report shall also include any annual reporting
23 information otherwise required pursuant to the California Mitigation Fee Act, Government
24 Code 66001 et seq. The report shall be presented by the Planning Director to the Planning
25 Commission and to the Land Use & Economic Development Committee of the Board of

1 Supervisors. The Report shall also contain information on the Controller's annual construction
2 cost inflation adjustments to development fees described in subsection (b) below, as well as
3 information on MOH's separate adjustment of the Jobs-Housing Linkage and Inclusionary
4 Affordable Housing fees described in Sections 413.6(b) and 415.5(b)(3).

5 * * * *

6
7 **SEC. 412.1. PURPOSE AND FINDINGS SUPPORTING DOWNTOWN PARK FEE.**

8 (a) Purpose. Existing public park facilities located in the downtown office districts
9 are at or approaching capacity utilization by the daytime population in those districts. The
10 need for additional public park and recreation facilities in the downtown districts will increase
11 as the daytime population increases as a result of continued office development in those
12 areas. While the open space requirements imposed on individual office and retail
13 developments address the need for plazas and other local outdoor sitting areas to serve
14 employees and visitors in the districts, such open space cannot provide the same recreational
15 opportunities as a public park. In order to provide the City and County of San Francisco with
16 the financial resources to acquire and develop public park and recreation facilities which will
17 be necessary to serve the burgeoning daytime population in these districts, a Downtown Park
18 Fund shall be established as set forth herein. ~~The Board of Supervisors adopts the findings of the~~
19 ~~Downtown Open Space Nexus Study in accordance with the California Mitigation Fee Act, Government~~
20 ~~Code 66001(a) on file with the Clerk of the Board in File No. _____.~~

21 (b) Findings. The Board of Supervisors has reviewed the San Francisco Citywide Nexus
22 Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and the San Francisco
23 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
24 Clerk of the Board in File No. _____ and, under Section 401A, adopts the findings and
25 conclusions of those studies and the general and specific findings in that Section, specifically including

1 the Recreation and Open Space Findings, and incorporates those by reference herein to support the
2 imposition of the fees under this Section.

3
4 **SEC. 412.6. COLLECTION OF FEE.**

5 The Downtown Park Fee is due and payable to the Development Fee Collection Unit
6 at DBI ~~prior to~~ at the time of and in no event later than issuance of the first construction
7 document, with an option for the project sponsor to defer payment to prior to issuance of the
8 first certificate of occupancy upon agreeing to pay a deferral surcharge that would be
9 deposited into the Downtown Park Fund, in accordance with Section 107A.13.15 of the San
10 Francisco Building Code.

11
12 **SEC. 414.1. PURPOSE AND FINDINGS SUPPORTING CHILDCARE**
13 **REQUIREMENTS FOR OFFICE AND HOTEL DEVELOPMENT PROJECTS.**

14 (a) Purpose. Office, hotel, and other new commercial developments in the City are
15 benefitted by the availability of childcare for persons employed in such developments close to their
16 place of employment. However, the supply of childcare in the City has not kept pace with the demand
17 for childcare created by new employees. Due to this shortage of childcare, employers will have
18 difficulty in securing a labor force, and employees unable to find accessible and affordable quality
19 childcare will be forced either to work where such services are available outside of San Francisco or
20 leave the work force entirely, in some cases seeking public assistance to support their children. In
21 either case, there will be a detrimental effect on San Francisco's economy and its quality of life.

22 The San Francisco General Plan encourages "continued growth of prime downtown office
23 activities so long as undesirable consequences of such growth can be avoided" and requires that there
24 be the provision of "adequate amenities for those who live, work and use downtown." In light of these
25 provisions, the City should impose requirements on developers of certain commercial projects designed

1 to mitigate the adverse effects of the expanded employment facilitated by such projects. To that end, the
2 Commission is authorized to promote affirmatively the policies of the General Plan through the
3 imposition of special childcare development or assessment requirements. It is desirable to impose the
4 costs of the increased burden of providing childcare necessitated by such commercial development
5 projects directly upon the sponsors of new development generating the need. This is to be done through
6 a requirement that the sponsor construct childcare facilities or pay a fee into a fund used to foster the
7 expansion of and to ease access to affordable childcare as a condition of the privilege of development.

8 (b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus
9 Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and the San Francisco
10 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
11 Clerk of the Board in File No. _____ and, under Section 401A, adopts the findings and
12 conclusions of those studies and the general and specific findings in that Section, specifically including
13 the Childcare Findings, and incorporates those by reference herein to support the imposition of the fees
14 under this Section.

15 The Board hereby finds and declares as follows:

16 —A. Large scale office and hotel developments in the City have attracted and continue to
17 attract additional employees to the City, and there is a causal connection between such developments
18 and the need for additional child care facilities in the City, particularly child care facilities affordable
19 to households of low and moderate income.

20 —B. Office and hotel uses in the City are benefitted by the availability of child care for persons
21 employed in such offices and hotels close to their place of employment. However, the supply of child
22 care in the City has not kept pace with the demand for child care created by these new employees. Due
23 to this shortage of child care, employers will have difficulty in securing a labor force, and employees
24 unable to find accessible and affordable quality child care will be forced either to work where such
25 services are available outside of San Francisco, or leave the work force entirely, in some cases seeking

1 *public assistance to support their children. In either case, there will be a detrimental effect on San*
2 *Francisco's economy and its quality of life.*

3 *—C. Projections from the EIR for the Downtown Plan indicate that between 1984 and 2000*
4 *there will be a significant increase of nearly 100,000 jobs in the C-3 District under the Downtown*
5 *Plan. Most of that employment growth will occur in office and hotel work, which consist of a*
6 *predominantly female work force.*

7 *—D. According to the survey conducted of C-3 District workers in 1981, 65 percent of the*
8 *work force was between the ages of 25—44. These are the prime childbearing years for women, and the*
9 *prime fathering years for men. The survey also indicated that only 12 percent of the C-3 District jobs*
10 *were part time, leaving up to 88 percent of the positions occupied by full time workers. All of these*
11 *factors point to the inevitable increase in the number of working parents in the C-3 District and the*
12 *concomitant increase in need for accessible, quality child care.*

13 *—E. Presently, there exists a scarcity of child care in the C-3 District and citywide for all*
14 *income groups, but the scarcity is more acutely felt by households of low and moderate income.*
15 *Hearings held on April 25, 1985 before the Human Services Committee of the San Francisco Board of*
16 *Supervisors documented the scarcity of child care available in the C-3 District, the impediments to*
17 *child care program startup and expansion, the increase in the numbers of children needing care, and*
18 *the acute shortage of supply throughout the Bay Area. The Board of Supervisors also takes legislative*
19 *notice of the existing and projected shortage of child care services in the City as documented by the*
20 *Child Care Information Kit prepared by the California Child Care Resources and Referral Network*
21 *located in San Francisco.*

22 *—F. The scarcity of child care in the City is due in great part to large office and hotel*
23 *development, both within the C-3 District and elsewhere in the City, which has attracted and will*
24 *continue to attract additional employees and residents to the City. Some of the employees attracted to*
25 *large office and hotel developments are competing with present residents for the few openings in child-*

1 *care programs available in the City. Competition for child care generates the greatest pressure on*
2 *households of low and moderate income. At the same time that large office and hotel development is*
3 *generating an increased demand for child care, it is improbable that factors inhibiting increased supply*
4 *of child care will be mitigated by the marketplace; hence, the supply of child care will become*
5 *increasingly scarce.*

6 ~~*—G. The San Francisco General Plan encourages "continued growth of prime downtown*~~
7 ~~*office activities so long as undesirable consequences of such growth can be avoided" and requires that*~~
8 ~~*there be the provision of "adequate amenities for those who live, work and use downtown." In light of*~~
9 ~~*these provisions, the City should impose requirements on developers of office and hotel projects*~~
10 ~~*designed to mitigate the adverse effects of the expanded employment facilitated by such projects. To*~~
11 ~~*that end, the Commission is authorized to promote affirmatively the policies of the General Plan*~~
12 ~~*through the imposition of special child care development or assessment requirements. It is desirable to*~~
13 ~~*impose the costs of the increased burden of providing child care necessitated by such office and hotel*~~
14 ~~*development projects directly upon the sponsors of new development generating the need. This is to be*~~
15 ~~*done through a requirement that the sponsor construct child care facilities or pay a fee into a fund used*~~
16 ~~*to foster the expansion of and to ease access to affordable child care as a condition of the privilege of*~~
17 ~~*development.*~~

18
19 **SEC. 414.8. COMPLIANCE BY PAYMENT OF AN IN-LIEU FEE.**

20 (a) The sponsor of a development project subject to Section 414.1 et seq. may elect
21 to pay a fee in lieu of providing a child-care facility. The fee shall be computed as follows:
22

23 Net add. gross sq. ft. office or hotel space	× \$1.00 = Total Fee
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24
25

1 (b) The in-lieu fee is due and payable to the Development Fee Collection Unit at DBI
2 ~~prior to~~ at the time of and in no event later than issuance of the first construction document with
3 an option for the project sponsor to defer payment to prior to issuance of the first certificate of
4 occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Child
5 Care Capital Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.
6

7 **SEC. 418.1. PURPOSE AND FINDINGS SUPPORTING RINCON HILL COMMUNITY**
8 **IMPROVEMENTS FUND AND SOMA COMMUNITY STABILIZATION FUND.**

9 (a) **Purpose.** The Board takes legislative notice of the purpose of the Rincon Hill Area Plan
10 as articulated in the Rincon Hill Area Plan of the San Francisco General Plan. In general, the Rincon
11 Hill Area Plan aims to transform Rincon Hill into a mixed-use downtown neighborhood with a
12 significant housing presence, while providing the full range of services and amenities that support
13 urban living. In addition, the Board notes the findings made in the Rincon Hill Area Plan that support
14 the establishment of the Rincon Hill Community Improvements Fund specifically that Rincon Hill is
15 lacking in open space facilities, pedestrian and streetscape amenities and bicycle infrastructure.

16 (b) **Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus
17 Analysis prepared by AECOM dated March 2014 (“Nexus Analysis”), and the San Francisco
18 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
19 Clerk of the Board in File No. _____ and, under Section 401A, adopts the findings and
20 conclusions of those studies and the general and specific findings in that Section, specifically including
21 the Recreation and Open Space Findings, Pedestrian and Streetscape Findings, and Bicycle
22 Infrastructure Findings and incorporates those by reference herein to support the imposition of the fees
23 under this Section.

24 The Board takes legislative notice of the findings supporting the fees in former Planning Code
25 Section 418.1 (formerly Section 318.1) and the materials associated with Ordinance No. 217-05 in

1 Board File No. 050865. To the extent that the Board previously adopted fees in this Area Plan that are
2 not covered in the analysis of the 4 infrastructure areas analyzed in the Nexus Analysis, including but
3 not limited to fees related to transit, the Board continues to rely on its prior analysis and the findings it
4 made in support of those fees.

5 ~~A. The population of California has grown by more than 11 percent since 1990 and is expected~~
6 ~~to continue increasing. The San Francisco Bay Area is growing at a rate similar to the rest of the State.~~
7 ~~New residential construction in San Francisco is necessary to accommodate the additional population.~~
8 ~~At the same time, new residential construction should not diminish the City's open space or increase~~
9 ~~dependence on the private automobile for commuting.~~

10 ~~San Francisco already is experiencing a severe shortage of housing available to people at all~~
11 ~~income levels, resulting in a sharp increase in home prices. The Association of Bay Area Governments'~~
12 ~~Regional Housing Needs Determination (RHND) forecasts that 20,372 new residential units need to be~~
13 ~~built in San Francisco by 2006, and at least 5,639 of these units should be available to moderate~~
14 ~~income households.~~

15 ~~The City should encourage new housing production in a manner that enhances existing~~
16 ~~neighborhoods and creates new residential and mixed-use neighborhoods. One solution to the housing~~
17 ~~crisis is to encourage the construction of higher density housing in areas of the City best able to~~
18 ~~accommodate such housing because of easy access to public transit and the availability of larger~~
19 ~~development sites.~~

20 ~~— Many elements constrain housing production in the City, making it a challenge to build~~
21 ~~housing that is affordable to those at moderate income levels. San Francisco is largely built out, and its~~
22 ~~geographical location at the northern end of a peninsula inherently prevents substantial new~~
23 ~~development. There is no available adjacent land to be annexed, as the cities located on San~~
24 ~~Francisco's southern border are also dense urban areas. Thus, new construction of housing is limited~~
25 ~~to areas of the City not previously designated as residential areas, infill sites, or areas with increased~~

1 *density. New market rate housing absorbs a significant amount of the remaining supply of land and*
2 *other resources available for development and thus limits the supply of affordable housing.*

3 *Emerging downtown residential areas of the City contain many older commercial, institutional*
4 *and industrial uses. Due to the underutilization of land in these areas and their proximity to downtown*
5 *employment and City and regional transport, they present an opportunity to build a quantity of new*
6 *housing at increased densities within easy walking distance of the downtown and City and regional*
7 *transit centers in a way that can contribute to a vibrant downtown community over the next several*
8 *years. The Planning Department is currently rezoning these areas to a "Downtown Residential" (DTR)*
9 *zoning that will enable significant new high density residential development. These areas are lacking,*
10 *however, in even basic infrastructure and amenities necessary to serve a residential population, and*
11 *the need for these improvements will increase as the downtown's residential population, especially*
12 *families and children, grow with the transformation of these areas into dense mixed-use residential*
13 *districts. While the open space requirements imposed on individual developments address minimum*
14 *needs for private open space and access to light and air, such open space cannot provide the same*
15 *social and recreational opportunities as safe and attractive public sidewalks, parks and other*
16 *community services, nor does it contribute to the overall transformation of the district into a safe and*
17 *attractive residential area.*

18 *In order to enable the City and County of San Francisco to create a coherent, attractive, and*
19 *safe residential neighborhood in these emerging downtown residential areas, and to increase property*
20 *values and investment in the district, it is necessary to upgrade existing streets and streetscaping, and*
21 *to acquire and develop neighborhood parks, recreation facilities and other community services to serve*
22 *the new residential population. To fund such community infrastructure and amenities, new residential*
23 *development in the district shall be assessed development impact fees proportionate to the increased*
24 *demand for such infrastructure and amenities created by the new housing. The City will use the*
25 *proceeds of the fee to build new infrastructure and enhance existing infrastructure in the district or*

1 ~~within 250 feet of the district that provides direct benefits to the new housing. The net increase in~~
2 ~~individual property values in these areas due to the enhanced neighborhood amenities financed with~~
3 ~~the proceeds of the fee are expected to exceed the payments of fees by the sponsors of residential~~
4 ~~development. A Community Improvements Impact Fee shall be established for DTR districts as set forth~~
5 ~~herein.~~

6 ~~B. To respond to this identified need for housing, Rincon Hill and other downtown~~
7 ~~neighborhoods are proposed to be rezoned as part of comprehensive neighborhood plans to encourage~~
8 ~~high density residential uses. These areas are currently occupied primarily by older commercial and~~
9 ~~industrial uses with minimal public infrastructure and amenities to support a significant residential~~
10 ~~population. In addition, very few residents currently reside in these areas. New residential development~~
11 ~~in these areas will impact the local infrastructure and generate a substantial need for community~~
12 ~~improvements as the district's population grows as a result of new residential development. Substantial~~
13 ~~new investments in community infrastructure, including parks, pedestrian and streetscape~~
14 ~~improvements, and other community facilities are necessary to mitigate the impacts of new~~
15 ~~development in these districts.~~

16 ~~The amendments to the General Plan, Planning Code and Zoning Map that correspond to~~
17 ~~Section 418.1 et seq. will permit an extraordinary amount of new residential development. More than~~
18 ~~2,220 new units representing approximately 5,100 new residents would be anticipated in the~~
19 ~~neighborhood, and along with other approved projects, will result in a 400% increase in the area's~~
20 ~~residential population. This new development will have an extraordinary impact on the district's dated~~
21 ~~infrastructure. As described more fully in the Rincon Hill Plan Final Environmental Impact Report,~~
22 ~~San Francisco Planning Department, Case No. 2000.1081E, 2005 on file with the Clerk of the Board in~~
23 ~~File No. 050865, new development will also generate substantial new traffic in the area, which will~~
24 ~~impact the area. The Rincon Hill Plan proposes to mitigate these impacts by providing extensive~~
25 ~~pedestrian, traffic calming and other streetscape improvements that will make it attractive to residents~~

1 *to make as many daily trips as possible on foot, by bicycle or on transit. A comprehensive program of*
2 *new public infrastructure is necessary to mitigate the impacts of the proposed new development and to*
3 *provide these basic community improvements to the area's growing residential population.*

4 *As a result of this new development, property tax revenue is expected to increase by as much as*
5 *\$29 million annually in Rincon Hill. These revenues will fund improvements and expansions to general*
6 *City services, including Police, Fire, Emergency, and other services needed to partially meet increased*
7 *demand associated with new development. Local impacts on the need for community infrastructure will*
8 *be extraordinary in Rincon Hill, compared to those typically funded by city government through*
9 *property tax revenues. The relative cost of capital improvements, along with the reduced role of State*
10 *and Federal funding sources, increases the necessity for development impact fees to cover these costs.*
11 *General property tax revenues will not be adequate to fully fund the costs of the community*
12 *infrastructure necessary to mitigate the impacts of new development in the Rincon Hill area.*

13 *Development impact fees are a more cost-effective, realistic way to implement mitigations to a*
14 *local area associated with a particular development proposal's impact. As important, the proposed*
15 *Rincon Hill Community Infrastructure Impact Fee would be dedicated to the Rincon Hill area,*
16 *directing benefits of the fund directly to those who pay into the fund.*

17 *While this fee will increase the overall burden on new development in the area, the burden is*
18 *typically reflected in a reduced sale price for developable land, or passed on to the buyers/renters of*
19 *housing in the area and thus is born primarily by those who have caused the impact and who will*
20 *ultimately enjoy the benefits of the community improvements it pays for.*

21 *C. The purpose of the proposed Rincon Hill Community Infrastructure Impact Fee is to*
22 *provide specific improvements, including community open spaces, pedestrian and streetscape*
23 *improvements and other facilities and services. These improvements are described in detail in the*
24 *Rincon Hill Plan and Section 418.1 et seq., and are necessary to meet established City standards for*
25 *the provision of such facilities. The Rincon Hill Community Improvements Fund and Community*

1 *Infrastructure Impact Fee will create the necessary financial mechanism to fund these improvements in*
2 *proportion to the need generated by new development.*

3 *The capital improvements, which the fee would fund, are clearly described in Section 418.1 et*
4 *seq., and in Table 1 below. The fee would be used solely to fund the acquisition, design, and*
5 *construction, and maintenance of public facilities in DTR Districts, and specifically in the Rineon Hill*
6 *area. The proposed fees only cover impacts caused by new development and are not intended to remedy*
7 *already existing deficiencies; those costs will be paid for by other sources.*

8 *The proposed improvements described in Table 1 are necessary to serve the new population at*
9 *the anticipated densities and meet established standards for local access to parks and community*
10 *facilities described in the General Plan.*

11 *The exact amount of the fee has been calculated by the Department based on accepted*
12 *professional methods for the calculation of such fees described in more detail in the Department's case*
13 *report for Section 418.1 et seq., on file with the Clerk of the Board in File No. 050865. Cost estimates*
14 *are based on a detailed assessment of the potential cost to the city of providing the specific*
15 *improvements described in the Rineon Hill Plan.*

16 *—D. The proposed Rineon Hill Community Infrastructure Impact Fee would fund mitigations*
17 *of the impacts of new development on:*

18 *—• Open Space: Acquisition and development of neighborhood parks;*

19 *—• Streets: Extensive streetscape improvements throughout the district, including sidewalk*
20 *widenings on Spear, Main, Beale and Essex Streets that would result in useable neighborhood open*
21 *space;*

22 *—• Community Facilities: ADA, seismic and tenant improvements to the Sailor's Union of the*
23 *Pacific building at 450 Harrison Street that would make the building available for public uses,*
24 *including community arts, recreation and education facilities; and*

1	SF**	
2	Fee Rate/Occ. Res.	\$ 11.00
3	SF	
4	Projected Fee	\$ 23,199,000
5	Revenue	
6	**Assumes an average of 925 net SF per unit	
7	SF Planning Department, April 2005	

8 *F. The proposed Rincon Hill Community Infrastructure Impact Fee is necessary to meet*
9 *relevant State and national service standards, as well as local standards in the Goals and Objectives of*
10 *the General Plan as described below:*

11 *Open Space: The San Francisco General Plan contains the following objectives and policies*
12 *that call for the provision of streetscape parks and community facilities improvements to serve San*
13 *Francisco's residential population: Recreation and Open Space Element Objective 2 (Develop and*
14 *maintain a diversified and balanced citywide system of high quality public open space); Policy 2.1*
15 *(Provide an adequate total quantity and equitable distribution of public open spaces throughout the*
16 *City); Policy 2.7 (Acquire additional open space for public use), Objective 4 (Provide opportunities for*
17 *recreation and the enjoyment of open space in every San Francisco neighborhood), Policy 4.4 (Acquire*
18 *and develop new public open space in existing residential neighborhoods, giving priority to areas*
19 *which are most deficient in open space), Policy 4.6 (Assure the provision of adequate public open*
20 *space to serve new residential development), and Urban Design Element Policy 4.8 (Provide*
21 *convenient access to a variety of recreation opportunities).*

22 *The Recreation and Open Space Element of the General Plan cites the National Park and*
23 *Recreation Association open space standard of 10 acres per 1,000 residents. Although it acknowledges*
24 *that this standard is unachievable in a built-out city with limited open space opportunities such as San*
25 *Francisco, it notes that San Francisco does have an average of approximately 5.5 open space acres per*

1 *resident, and states, "to the extent it reasonably can, the City should increase the per capita supply of*
2 *public open space within the City." This standard is consistent with the national standards for the*
3 *provision of open space to serve residential uses.*

4 *Additionally, the General Plan contains standards for the distribution of public open space.*
5 *Areas within acceptable walking distance of open space include areas within ½ mile of a "Citywide"*
6 *open space (1–1,000 acres), ¼ mile of a "District" open space (>10 acres), ¼ mile of a "Neighborhood"*
7 *open space (1–10 acres), and ¼ mile of a "Subneighborhood" open space (< 1 acre).*

8 *Map 2 of the Recreation and Open Space Element shows that the entirety of Rincon Hill is not*
9 *served by open space, and Figure 3 identifies the Rincon Hill area as an "Area Not Served by Public*
10 *Open Space." Map 4 identifies the Rincon Hill area as an area in which to "Provide New Open Space*
11 *in the General Vicinity."*

12 *As a primarily industrial and commercial area, Rincon Hill has historically not had a great*
13 *need for open space. However, as this area transitions to residential use, new development will create a*
14 *need for open space to serve the new residential population, pursuant to Recreation and Open Space*
15 *Element Policy 4.6, which states, "Assure the provision of adequate public open space to serve new*
16 *residential development."*

17 *The neighborhood open spaces which would be funded through the Rincon Hill Community*
18 *Infrastructure Impact Fee would alleviate a portion of the impacts associated with new development*
19 *and meet the needs of the new population by raising the per capita amount of open space in the district,*
20 *and by bringing parts of the district within ¼ mile of an open space, the General Plan standard for*
21 *"Neighborhood" open spaces (1–10 acres). Together with existing and other proposed parks,*
22 *approximately 8.5 acres of open space would be available to serve the Rincon Hill area's projected*
23 *population of 16,400 residents, or 0.52 acres of open space per 1,000 residents.*

24 *Streetscape Improvements: The proposed pedestrian and streetscape improvements would*
25 *increase the amount of useable open space in Rincon Hill, improve pedestrian safety, reduce*

1 ~~automobile trips and therefore mitigate traffic impacts expected in the district. Policy 4.11 of the Urban~~
2 ~~Design Element states, "Make use of street space and other unused public areas for recreation," and~~
3 ~~continues: "Walking along neighborhood streets is the common form of recreation. The usefulness of~~
4 ~~streets for this purpose can in many cases be improved by widening of sidewalks and installation of~~
5 ~~simple improvements such as benches and landscaping. Such improvements can often be put in place~~
6 ~~without narrowing of traffic lanes by use of parking bays with widening of sidewalks at the~~
7 ~~intersections and at other points unsuitable for parking. Streets that have roadways wider than~~
8 ~~necessary, and streets that are not developed for traffic because of their steepness, provide exceptional~~
9 ~~opportunities for recreation. These areas can be developed with playgrounds, sitting areas, viewpoints~~
10 ~~and landscaping that make them neighborhood assets and increase the opportunities for recreation~~
11 ~~close to the residents' homes."~~

12 ~~Map 9 of the Recreation and Open Space Element identifies Rincon Hill as one area to~~
13 ~~"Improve Street Space for Recreation and Landscaping where Possible."~~

14 ~~In Rincon Hill, which will be deficient in open space when built out as a residential~~
15 ~~neighborhood, and where available land for new open space is scarce, excess street space that can be~~
16 ~~used for open space forms an important component of the open space system. A portion of the funds~~
17 ~~collected from the Rincon Hill Community Infrastructure Impact Fee would be used to widen sidewalks~~
18 ~~on streets with excess roadway width, and use this space for recreation and open space amenities,~~
19 ~~helping to alleviate the open space need brought about by new development.~~

20 ~~National and international transportation studies (such as the Dutch Pedestrian Safety~~
21 ~~Research Review, T. Hummel, SWOV Institute for Road Safety Research (Holland), and University of~~
22 ~~North Carolina Highway Safety Research Center for the U.S. Dpt. of Transportation, 1999 on file with~~
23 ~~the Clerk of the Board in File No. 050865) have demonstrated that pedestrian, traffic calming and~~
24 ~~streetscape improvements of the type proposed for Rincon Hill result in safer, more attractive~~
25 ~~pedestrian conditions. These types of improvements are essential to making pedestrian activity safe and~~

1 ~~attractive in the district, thereby helping to mitigate traffic impacts associated with excess automobile~~
2 ~~trips that could otherwise be generated by new development.~~

3 ~~Community Facilities: The Community Facilities Element of the General Plan contains the~~
4 ~~following relevant provisions: Objective 3 (Assure that Neighborhood Residents Have Access to~~
5 ~~Needed Services and a Focus for Neighborhood Activities), Policy 3.1 (Provide neighborhood centers~~
6 ~~in areas lacking adequate community facilities, Policy 3.3 (Develop centers to serve an identifiable~~
7 ~~neighborhood), Policy 3.4 (Locate neighborhood centers so they are easily accessible and near the~~
8 ~~natural center of activity), and Policy 3.5 (Develop neighborhood centers that are multipurpose in~~
9 ~~character, attractive in design, secure and comfortable, and inherently flexible in meeting the current~~
10 ~~and changing needs of the neighborhood served.~~

11 ~~—Figure 2 of the Recreation and Open Space Element shows Rincon Hill as entirely outside of~~
12 ~~the service area for public gyms and recreation centers.~~

13 ~~—A portion of the funds from the Rincon Hill Community Infrastructure Impact Fee would pay~~
14 ~~for tenant improvements to the Sailor's Union of the Pacific Building at 450 Harrison Street, for spaces~~
15 ~~within the building that would be used for public community arts, education and recreation facilities.~~
16 ~~National and international best practices identify the need to provide community facilities to serve~~
17 ~~residential areas, especially in areas rezoned for high density housing without existing community~~
18 ~~infrastructure. Vancouver, B.C. has established service standards for the provision of community~~
19 ~~facilities in high density residential areas. The Department has determined that the community~~
20 ~~facilities proposed in Rincon Hill are consistent with these standards. Rincon Hill is currently deficient~~
21 ~~in community facilities; this condition will be exacerbated when the residential population of the area~~
22 ~~increases over time. Funds from the Community Infrastructure Impact Fee would be used to directly~~
23 ~~fund a new community center that would alleviate the deficiency brought about by the demand~~
24 ~~generated from new residents, by creating a public recreation, arts, and education facility accessible to~~
25 ~~all Rincon Hill residents.~~

1 —*Library Services: New residents in Rincon Hill will generate a substantial new need for*
2 *library services. The San Francisco Public Library has indicated that it does not anticipate adequate*
3 *demand for a branch library in Rincon Hill at this time. However, the increase in population in Rincon*
4 *Hill will create additional demand at other libraries, primarily the Main Library and the new Mission*
5 *Bay branch library. The Rincon Hill Community Infrastructure Impact Fee includes a funding for*
6 *library services equal to \$69 per new resident, which is consistent with the service standards used by*
7 *the San Francisco Public Library for allocating resources to neighborhood branch libraries.*

8 **(c) SoMa Community Stabilization Fund.** ~~G.~~ The development of the Rincon Hill
9 Area Plan will also have economic impacts on the immediately surrounding area of
10 SoMaSOMA. Specifically, the development will have impacts on affordable housing, economic
11 and community development, and community cohesion in SoMaSOMA.

12 ~~H. Affordable Housing: The findings in former Planning Code Section 315.2 of the~~
13 ~~Inclusionary Affordable Housing Ordinance are hereby readopted and updated as follows:~~

14 —~~1. Affordable housing is a paramount statewide concern. In 1980, the Legislature declared~~
15 ~~in Government Code Section 65580:~~

16 —~~(a) The availability of housing is of vital statewide importance, and the early attainment~~
17 ~~of decent housing and a suitable living environment for every California family is a priority of the~~
18 ~~highest order.~~

19 —~~(b) The early attainment of this goal requires the cooperative participation of~~
20 ~~government and the private sector in an effort to expand housing opportunities and accommodate the~~
21 ~~housing needs of Californians of all economic levels.~~

22 —~~(c) The provision of housing affordable to low and moderate income households~~
23 ~~requires the cooperation of all levels of government.~~

1 ~~— (d) Local and state governments have a responsibility to use the powers vested in them to~~
2 ~~facilitate the improvement and development of housing to make adequate provision for the housing~~
3 ~~needs of all economic segments of the community.~~

4 ~~— The Legislature further stated in Government Code Section 65581 that: It is the intent of~~
5 ~~the Legislature in enacting this article:~~

6 ~~— (a) To assure that counties and cities recognize their responsibilities in contributing to~~
7 ~~the attainment of the state housing goal.~~

8 ~~— (b) To assure that counties and cities will prepare and implement housing elements~~
9 ~~which will move toward attainment of the state housing goal.~~

10 ~~— (c) To recognize that each locality is best capable of determining what efforts are~~
11 ~~required by it to contribute to the attainment of the state housing goal.~~

12 ~~— The California Legislature requires each local government agency to develop a~~
13 ~~comprehensive long term general plan establishing policies for future development. As specified in the~~
14 ~~Government Code (at Sections 65300, 65302(e), and 65583(e)), the plan must (1) "encourage the~~
15 ~~development of a variety of types of housing for all income levels, including multifamily rental~~
16 ~~housing"; (2) "[a]ssist in the development of adequate housing to meet the needs of low and moderate-~~
17 ~~income households"; and (3) "conserve and improve the condition of the existing affordable housing~~
18 ~~stock which may include addressing ways to mitigate the loss of dwelling units demolished by public or~~
19 ~~private action."~~

20 ~~— 2. San Francisco faces a continuing shortage of affordable housing for very low and low-~~
21 ~~income residents. The San Francisco Planning Department reported that for the four year period~~
22 ~~between 2000 and 2004, 8,389 total new housing units were built in San Francisco. This number~~
23 ~~includes 1,933 units for low and very low income households out of a total need of 3,930 low and very~~
24 ~~low income housing units for the same period. According to the state Department of Housing and~~
25 ~~Community Development, there will be a regional need for 230,743 new housing units in the nine Bay~~

1 *Area counties from 1999-2006. Of that amount, at least 58 percent, or 133,164 units, are needed for*
2 *moderate, low and very low income households. The Association of Bay Area Governments (ABAG) is*
3 *responsible for dividing the total regional need numbers among its member governments which*
4 *includes both counties and cities. ABAG estimates that San Francisco's low and very low income*
5 *housing production need from 1999 through 2006 is 7,370 units out of a total new housing need of*
6 *20,372 units, or 36% of all units built. Within the past four years, only 23% of all housing built, or 49%*
7 *of the previously projected housing need for low and very low income housing for the same period, was*
8 *produced in San Francisco. The production of moderate income rental units also fell short of the ABAG*
9 *goal. Only 351 moderate income units were produced over the previous four years, or 4% of all units*
10 *built, compared to ABAG's call for 28% of all units to be affordable to households of moderate income.*
11 *Given the need for 3,007 moderate income units over the 4 year period, only 12% of the projected need*
12 *for moderate income units was built.*

13 *—3. In response to the above mandate from the California Legislature and the projections of*
14 *housing needs for San Francisco, San Francisco has instituted several strategies for producing new*
15 *affordable housing units. The 2004 Housing Element of the General Plan recognizes the need to*
16 *support affordable housing production by increasing site availability and capacity for permanently*
17 *affordable housing through the inclusion of affordable units in larger market rate housing projects.*
18 *Further, the City, as established in the General Plan, seeks to encourage the distribution of affordable*
19 *housing throughout all neighborhoods and, thereby, offer diverse housing choices and promote*
20 *economic and social integration. The 2004 Housing Element calls for an increase in the production of*
21 *new affordable housing and for the development of mixed income housing to achieve social and*
22 *cultural diversity. This legislation furthers the goals of the State Legislature and the General Plan.*

23 *—4. The 2005 Consolidated Plan for July 1, 2000-June 30, 2005, issued by the Mayor's*
24 *Office of Community Development and the Mayor's Office of Housing establishes that extreme housing*
25 *pressures face San Francisco, particularly in regard to low and moderate income residents. Many*

1 *elements constrain housing production in the City. This is especially true of affordable housing. As*
2 *discussed in the 2004 Housing Element published by the City Planning Department, San Francisco is*
3 *largely built out, with very few large open tracts of land to develop. As noted in the 2000 Consolidated*
4 *Plan, its geographical location at the northern end of a peninsula inherently prevents substantial new*
5 *development. There is no available adjacent land to be annexed, as the cities located on San*
6 *Francisco's southern border are also dense urban areas. Thus new construction of housing is limited to*
7 *areas of the City not previously designated as residential areas, infill sites, or to areas with increased*
8 *density. New market rate housing absorbs a significant amount of the remaining supply of land and*
9 *other resources available for development and thus limits the supply of affordable housing.*

10 *— There is a great need for affordable rental and owner-occupied housing in the City.*
11 *Housing cost burden is one of the major standards for determining whether a locality is experiencing*
12 *inadequate housing conditions, defined as households that expend 30% or more of gross income for*
13 *rent or 35% or more of household income for owner costs. The 2000 Census indicates that 64,400*
14 *renter households earning up to 80% of the area median income are cost burdened. Of these, about*
15 *25,000 households earn less than 50% AMI and pay more than 50% of their income to rent. According*
16 *to more recent data from the American Housing Survey, 80,662 total renter households, or 41%, are*
17 *cost burdened in 2003. A significant number of owners are also cost burdened. According to 2000*
18 *Census data, 18,237 of owners are cost burdened, or 23% of all owner households. The 2003 American*
19 *Housing Survey indicates that this level has risen to 29%.*

20 *— The San Francisco residential real estate market is one of the most expensive in the*
21 *United States. In May 2005, the California Association of Realtors reported that the median priced*
22 *home in San Francisco was \$755,000. This is 18% higher than the median priced home one year*
23 *earlier, 44% higher than the State of California median, and 365% higher than the nation average.*
24 *While the national home ownership rate is approximately 69%, only approximately 35% of San*
25 *Franciscans own their own home. Clearly, the majority of market rate homes for sale in San Francisco*

1 are priced out of the reach of low and moderate income households. In May 2005, the average rent for
2 a 2-bedroom apartment was \$1821, which is affordable to households earning over \$74,000.

3 ——— These factors contribute to a heavy demand for affordable housing in the City that the
4 private market cannot meet. Each year the number of market rate units that are affordable to low
5 income households is reduced by rising market rate rents and sales prices. The number of households
6 benefiting from rental assistance programs is far below the need established by the 2000 Census.
7 Because the shortage of affordable housing in the City can be expected to continue for many years, it is
8 necessary to maintain the affordability of the housing units constructed by housing developers under
9 this Program. The 2004 Housing Element of the General Plan recognizes this need. Objective 1 of the
10 Housing Element is to provide new housing, especially permanently affordable housing, in appropriate
11 locations which meets identified housing needs and takes into account the demand for affordable
12 housing created by employment demand. Objective 6 is to protect the affordability of existing housing,
13 and to ensure that housing developed to be affordable be kept affordable for 50-75 year terms, or even
14 longer if possible.

15 ——— In 2004 the National Housing Conference issued a survey entitled "Inclusionary Zoning:
16 The California Experience." The survey found that as of March 2003, there were 107 cities and
17 counties using inclusionary housing in California, one fifth of all localities in the state. Overall, the
18 inclusionary requirements were generating large numbers of affordable units. Only six percent of
19 jurisdictions reported voluntary programs, and the voluntary nature appears to compromise the local
20 ability to guarantee affordable housing production. While there was a wide range in the affordability
21 percentage requirements for inclusionary housing, the average requirement for affordability in rental
22 developments is 13%. Approximately half of all jurisdictions require at least 15% to be affordable, and
23 one quarter require 20% or more to be affordable.

24 ——— 5. Development of new market rate housing makes it possible for new residents to move to
25 the City. These new residents place demands on services provided by both public and private sectors.

1 *Some of the public and private sector employees needed to meet the needs of the new residents earn*
2 *incomes only adequate to pay for affordable housing. Because affordable housing is in short supply*
3 *within the City, such employees may be forced to live in less than adequate housing within the City, pay*
4 *a disproportionate share of their incomes to live in adequate housing within the City, or commute ever-*
5 *increasing distances to their jobs from housing located outside the City. These circumstances harm the*
6 *City's ability to attain goals articulated in the City's General Plan and place strains on the City's ability*
7 *to accept and service new market rate housing development.*

8 *—6. The development of affordable housing on the same site as market rate housing*
9 *increases social and economic integration vis-a-vis housing in the City and has corresponding social*
10 *and economic benefits to the City. Inclusionary housing provides a healthy job and housing balance.*
11 *Inclusionary housing provides more affordable housing close to employment centers which in turn may*
12 *have a positive economic impact by reducing such costs as commuting and labor costs. However, there*
13 *may also be trade-offs where constructing affordable units at a different site than the site of the*
14 *principal project may produce a greater number of affordable units without additional costs to the*
15 *project sponsor. If a project sponsor may produce a significantly greater number of affordable units*
16 *off site then it is in the best interest of the City to permit the development of affordable units at a*
17 *different location than that of the principal project.*

18 *—7. Provided project sponsors can take these requirements into consideration when*
19 *negotiating to purchase land for a housing project, the requirements of this Section are generally*
20 *financially feasible for project applicants to meet, particularly because of the benefits being conferred*
21 *by the City to housing projects under Section 418.1 et seq. Section 418.1 et seq. provides a means by*
22 *which a project sponsor may seek a reduction or waiver of the requirements of this mitigation fees if*
23 *the project sponsor can show that imposition of these requirements would create an unlawful financial*
24 *burden.*

1 — 8. *Conditional Use and Planned Unit Development Permits permit the development of*
2 *certain uses not permitted as of right in specific districts or greater density of permitted residential*
3 *uses. As the General Plan recognizes, through the conditional use and planned unit development*
4 *process, applicants for housing projects generally receive material economic benefits. Such applicants*
5 *are generally permitted to build in excess of the generally applicable black letter requirements of the*
6 *Planning Code for housing projects resulting in increased density, bulk, or lot coverage or a reduction*
7 *in parking or other requirements or an approval of a more intensive use over that permitted without the*
8 *conditional use permit or planned unit development permit. Through the conditional use and planned*
9 *unit development process, building standards can be relaxed in order to promote lower cost home*
10 *construction. An additional portion of San Francisco's affordable housing needs can be supplied (with*
11 *no public subsidies or financing) by private sector housing developers developing inclusionary*
12 *affordable units in their large market rate projects in exchange for the density and other bonuses*
13 *conferred by conditional use or planned unit development approvals, provided it is financially*
14 *attractive for private sector housing developers to seek such conditional use and/or planned unit*
15 *development approvals. In the Rincon Hill context, the City is conferring the traditional benefits of a*
16 *conditional use permit through the provisions of the Rincon Hill Plan. Thus developers receive the*
17 *benefits of a conditional use but their development is generally principally permitted.*

18 — 9. *The City wants to balance the burden on private property owners with the demonstrated*
19 *need for affordable housing in the City. For the reasons stated above, the Board of Supervisors thus*
20 *intends to apply an inclusionary housing requirement to all residential projects of 10 units or more*
21 *and, due to the factors discussed above, the Board will apply the percentage assigned to conditional*
22 *use and planned unit development permits to all development in the Rincon Hill Plan Area.*

23 10. *The Rincon Hill Plan enables new market rate development on major opportunity sites,*
24 *which, in effect, reduces land available for affordable housing. Furthermore, new market rate*
25 *development in Rincon Hill will be of greater density than allowed elsewhere in the South of Market,*

1 ~~increasing land values. This increase in land values further reduces the feasibility for affordable~~
2 ~~housing in the Rincon Hill Plan area, and justifies imposition of a somewhat greater affordable~~
3 ~~housing requirement on housing projects in the Rincon Hill Plan area.~~

4 (1) **Housing.** The Board has adopted extensive findings documenting generally the need for
5 housing and particularly affordable housing and the impact of market rate housing development on the
6 need for affordable housing in Section 415.1 and incorporates those findings herein. The proposed
7 new development in the Rincon Hill area will also lead to increased home prices and
8 increased rental rates in the immediate Rincon Hill area and the surrounding South of Market
9 area. This new development and corresponding increase in prices in the Rincon Hill area will
10 cause displacement of existing residents.

11 New development in the Rincon Hill area will be marketed to higher income groups
12 than other new development in San Francisco. Higher income groups have a higher demand
13 for services than other income groups, so a higher number of workers will need to be housed
14 in the area. Workers in the service industry generally make less than median income. The
15 development in Rincon Hill represents the development of a disproportionate share of the
16 available land for remaining housing development in the City.

17 The new development creates the need for additional affordable housing in the South
18 of Market neighborhood and the need to provide subsidies for existing residents so that they
19 will not be displaced and can continue living in their current neighborhood. In order to avoid
20 displacement from the new development, residents will also need financial support to avoid
21 eviction.

22 In addition, through the amendments to the Rincon Hill Area Plan and related zoning
23 maps, the overall development capacity of the Rincon Hill area will be increased by (1)
24 increasing permitted height and bulk, (2) eliminating residential density limits by lot area, and
25 (3) establishing a minimum residential to commercial use ratio. Existing permitted heights

1 range from 80 feet up to a maximum of 250 feet. The new Rincon Hill zoning would increase
2 heights up to 400 - 550 feet in selected locations. The permitted bulk for residential towers will
3 be increased from a maximum floor plate of 7,500 sf to a range from 7,500 - 10,000 sf. The
4 area's existing RC-4 zoning has a maximum permitted residential density of 1 unit per 200 of
5 lot area; this limit will be eliminated and the height and bulk envelope will control the maximum
6 development permitted. Thus project sponsors in the area are receiving a substantial increase
7 in density over what is currently permitted.

8 ~~(2)I.~~ **Economic and community development.** The new development in Rincon
9 Hill will also change the economic landscape of the Rincon Hill area and the South of Market
10 area. The new development in Rincon Hill will displace small businesses directly by focusing
11 development in the neighborhood on residential development and indirectly due to higher
12 rents and higher prices for real estate. Thus existing small businesses need financial
13 assistance to avoid being displaced.

14 The new development in the Rincon Hill area will also affect the type of jobs available
15 in the Rincon Hill and South of Market area. Current residents of SoMa are employed in the
16 Rincon Hill and SoMa area. New development in the Rincon Hill area will concentrate on
17 residential development, thus pushing out other uses including light industrial uses and small
18 business. Local workers will need to be retrained to avoid job displacement from the
19 development in the Rincon Hill area. Financial assistance will support employment
20 development, job placement, job development, and other forms of economic capacity building
21 for SoMa residents to ameliorate the effects of the economic displacement. The City benefits
22 from having workers live near to their work places in reduced commute times for residents,
23 and reduced traffic congestion and associated pollution.

24 ~~(3)J.~~ **Community cohesion.** New development in the Rincon Hill area in such a vast
25 quantity and of such a different character as currently exists will change the social fabric of the

1 neighborhood. Programs to promote leadership development, community cohesion, and civic
2 participation will also ameliorate the negative economic and social consequences of the new
3 development in Rincon Hill on the residents and small businesses in Rincon Hill and the
4 broader South of Market community.

5
6 **SEC. 418.3 APPLICATION OF RINCON HILL COMMUNITY IMPROVEMENTS FEE AND**
7 **SOMA COMMUNITY STABILIZATION FEE.**

8 * * * *

9 (g) Timing of Fee Payments. The Rincon Hill Community Infrastructure Impact Fee
10 and SOMA Stabilization Fee is due and payable to the Development Fee Collection Unit at
11 DBI ~~prior to~~ at the time of and in no event later than issuance of the first construction document,
12 with an option for the project sponsor to defer payment to prior to issuance of the first
13 certificate of occupancy upon agreeing to pay a deferral surcharge that would be paid into the
14 appropriate fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

15 * * * *

16
17 **SEC. 418.5. RINCON HILL COMMUNITY IMPROVEMENTS FUND.**

18 (a) There is hereby established a separate fund set aside for a special purpose
19 entitled the Rincon Hill Community Improvements Fund ("Fund"). All monies collected by the
20 Development Fee Collection Unit at DBI pursuant to Section 418.3(e) shall be deposited in a
21 ~~special~~ the Ffund maintained by the Controller. The receipts in the Fund ~~shall be~~ are hereby
22 appropriated in accordance with law through the normal budgetary process ~~to be used solely~~ to
23 fund public infrastructure and other allowable improvements subject to the conditions of this
24 Section.

25 (b) Use of Funds~~Fund Expenditure.~~

(1) Rincon Hill Infrastructure. All monies deposited in the Fund shall be used solely to design, engineer, acquire, improve, and develop neighborhood recreation and open spaces, pedestrian and streetscape improvements, and bicycle infrastructure~~public library resources and facilities, a community center, and other improvements~~ that result in new publicly-accessible facilities or other allowable improvements within the Rincon Hill Downtown Residential (DTR) District or within 250 feet of the District,~~except that funds used for "public library resources and facilities" may be used to augment services, resources, materials, equipment or facilities at a public library outside of the Rincon Hill DTR District or within 250 feet of the District, provided that such library is conveniently located such that it will demonstrably serve the increased population of the Rincon Hill district.~~ These improvements-expenditures shall be consistent with the Rincon Hill Public Open Space System as described in Map 5 of the Rincon Hill Area Plan of the General Plan and the Rincon Hill Streetscape Plan. The Fund shall be allocated in accordance with Table 418.5,~~and any Rincon Hill Improvements Plan that is approved by the Board of Supervisors in the future, except that monies from the Fund may be used by the Planning Commission to commission economic analyses for the purpose of revising the fee pursuant to Section 418.3 above, to complete a nexus study to demonstrate the relationship between residential development and the need for public facilities if this is deemed necessary, or to commission landscape architectural or other planning, design and engineering services in support of the proposed public improvements, provided they do not exceed a total of \$500,000.~~

Table 418.5

Breakdown of Use of Rincon Hill Community Improvements Fee by Infrastructure Type

<u>Improvement Type</u>	<u>Dollars Received from Residential Development</u>	<u>Dollars Received from Commercial Development</u>
<u>Complete Streets: Pedestrian</u>	<u>79%</u>	<u>Not applicable</u>

1	<u>and Streetscape Improvements</u>		
2	<u>Recreation and Open Space</u>	<u>16%</u>	<u>Not applicable</u>
3	<u>Program Administration</u>	<u>5%</u>	<u>Not applicable</u>

4 _____(2) **SoMa Stabilization Fund.** Notwithstanding Subsection (b)(1) above, \$6
5 million of the Fund shall be transferred to the SoMa Stabilization Fund described in Section
6 418.7 to be used exclusively for the following expenditures: SoMa Open Space Facilities
7 Development and Improvement; Community Facilities Development and Improvement; SoMa
8 Pedestrian Safety Planning, Traffic Calming, and Streetscape Improvement; and
9 Development of new affordable housing in SoMa. The Board of Supervisors finds that it is in
10 the best interest of the City that the Rincon Hill Community Improvements be built. ~~The Board~~
11 ~~of Supervisors further finds that the City will be able to build sufficient community improvements for~~
12 ~~the Rincon Hill Plan Area with the remainder of the money in the Rincon Hill Community~~
13 ~~Improvements Fund. In the event that the Department demonstrates to the Board that the City is unable~~
14 ~~to build the contemplated community improvements for the Plan Area, it shall be City policy to~~
15 ~~designate funds from the general fund received from real estate transfer taxes and property taxes on~~
16 ~~new development generated under the Rincon Hill Plan Area Plan approved in this ordinance sufficient~~
17 ~~to finance the rest of the community improvements proposed for the Rincon Hill Plan Area.~~

18 (3) **Program Administration.** No portion of the Fund may be used, by way of
19 loan or otherwise, to pay any administrative, general overhead, or similar expense of any
20 public entity, except for the purposes of administering this fund in an amount not to exceed 5 % of
21 the total annual revenue. Administration of this fund includes maintenance of the Fund, time and
22 materials associated with processing and approving fee payments and expenditures from the
23 Fund (including necessary hearings), reporting or informational requests related to the Fund,
24 and coordination between public agencies regarding determining and evaluating appropriate
25 expenditures of the Fund, ~~but shall not include design, engineering, real estate, or planning~~

1 ~~activities related to projects using Fund expenditures. Expenditures related to administration of the~~
2 ~~fund shall not exceed 4% of the aggregate value of fee payments subject to Section 418.3, including any~~
3 ~~in-kind agreements. Monies from the Fund may be used by the Planning Commission to commission~~
4 ~~economic analyses for the purpose of revising the fee under Section 418.3 above, to complete a nexus~~
5 ~~study to demonstrate or update the relationship between residential development and the need for~~
6 ~~public facilities, or to commission landscape, architectural or other planning, design and engineering~~
7 ~~services in support of the proposed public improvements. All interest earned on this account shall~~
8 be credited to the Rincon Hill Community Improvements Fund.

9 ~~(e) — The Controller's Office shall file a report with the Board of Supervisors in even-~~
10 ~~numbered years, which report shall set forth the amount of money collected in the Fund. The Fund~~
11 ~~shall be administered by the Planning Commission.~~

12 ~~(cd) Acquisition of New Open Space. A public hearing shall be held by both the~~
13 ~~Planning and Recreation and Parks Commissions to elicit public comment on proposals for~~
14 ~~the acquisition of property using monies in the Fund or through agreements for financing In-~~
15 ~~Kind Community Improvements via a Mello-Roos Community Facilities District that will~~
16 ~~ultimately be maintained by the Department of Recreation and Parks. Notice of public~~
17 ~~hearings shall be published in an official newspaper at least 20 days prior to the date of the~~
18 ~~hearing, which notice shall set forth the time, place, and purpose of the hearing. The hearing~~
19 ~~may be continued to a later date by a majority vote of the members of both Commissions~~
20 ~~present at the hearing. At a joint public hearing, a quorum of the Planning and The Recreation and~~
21 ~~Parks Commissions may vote to recommend to the Board of Supervisors that it appropriate money~~
22 ~~from allocate the monies in the Fund for acquisition of property for park use and/or for~~
23 ~~development of property for park use, or to approve projects proposed in connection with an~~
24 ~~agreement for In-Kind or CFD Improvements.~~

1 (de) The Planning Commission shall work to develop a proposed expenditure plan with
2 other City agencies and commissions, specifically the Department of Recreation and Parks,
3 DPW, and the Metropolitan San Francisco Municipal Transportation Agency, to develop a
4 proposed expenditure plan, and to develop agreements related to the administration of the
5 development of new public facilities within public rights-of-way or on any acquired property
6 designed for park use.; using such monies as have been allocated for that purpose at The proposed
7 expenditure plan shall be subject to approval by the Board of Supervisors a hearing of the Planning
8 Commission.

9 (ef) The Director shall have the authority to prescribe rules and regulations governing
10 the Fund, which are consistent with Section 418.1 et seq. The Director of Planning, as the head
11 of the Interagency Plan Implementation Committee (IPIC), shall make recommendations to the Board
12 regarding allocation of funds.

13
14 **SEC. 420.1. PURPOSE AND FINDINGS SUPPORTING VISITACION VALLEY**
15 **COMMUNITY IMPROVEMENTS FEE AND FUND.**

16 (a) Purpose. New Residential and Non-Residential Uses. The Visitacion Valley Fee Area
17 (Fee Area) is located along the southeastern border of San Francisco and includes the area
18 bounded by McLaren Park to the west, the San Mateo County line to the south, Mansell Street
19 to the north, and Highway 101 and Bayview Park to the east. The Board takes legislative notice
20 of the purpose of The Fee Area includes the following planning areas: Executive Park Subarea
21 Plan of the Bayview Hunters Point Area Plan, Schlage Lock, and the Visitacion Valley
22 Redevelopment Area, including the Schlage Lock site.; The Board also takes notice of the HOPE SF
23 program, specifically the and HOPE SF development at Sunnydale. Jointly these plans and
24 program aim to strengthen neighborhood character, the neighborhood commercial district, and
25 transit by increasing the housing and retail capacity in the area. This project goal will also help

1 to meet ABAG's projected demand to provide housing in the Bay Area by encouraging the
2 construction of higher density housing. The Plan builds on existing neighborhood character
3 and establishes new standards for amenities necessary for a transit-oriented neighborhood.
4 In addition, the Board notes the findings made in the above-referenced Plans that support the
5 establishment of the Visitacion Valley Community Improvements Fee and Fund, specifically that new
6 development in Visitacion Valley creates the need for improvements in pedestrian and streetscape
7 amenities, bicycle infrastrucutre, recreation and open space facilities, and childcare.

8 (b) Findings. The Board of Supervisors has reviewed the San Francisco Citywide Nexus
9 Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and the San Francisco
10 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
11 Clerk of the Board in File No. _____ and, under Section 401A, adopts the findings and
12 conclusions of those studies and the general and specific findings in that Section, specifically including
13 the Recreation and Open Space Findings, Pedestrian and Streetscape Findings, Childcare Findings,
14 and Bicycle Infrastructure Findings and incorporates those by reference herein to support the
15 imposition of the fees under this Section.

16 The Board takes legislative notice of the findings supporting these fees in former Planning Code
17 Section 420.1 (formerly Section 318.10 et seq.) and the materials associated with Ordinance No. 3-11
18 in Board File No. 101247. To the extent that the Board previously adopted fees in this Area Plan that
19 are not covered in the analysis of the 4 infrastructure areas analyzed in the Nexus Analysis, including
20 but not limited to fees related to transit, the Board continues to rely on its prior analysis and the
21 findings it made in support of those fees.

22 ~~(b) Need for Public Improvements to Accompany New Uses. The City anticipates an increase~~
23 ~~of at least 5,049 new housing units within the next 20 years, and over 52 new jobs, as described in the~~
24 ~~Visitacion Valley Nexus Study on file with the Clerk of the Board in File No. 101247 and incorporated~~
25 ~~by reference herein. This new development will have an impact on the Area's neighborhood~~

1 ~~infrastructure. New development will generate needs for a new Library, street improvements, transit~~
2 ~~improvements, community facilities, childcare and parks and recreation amenities, as described in the~~
3 ~~Visitacion Valley Nexus Study, on file with the Clerk of the Board. Various City agencies and related~~
4 ~~planning efforts intend to address existing deficiencies and new impacts through a comprehensive~~
5 ~~package of community improvements. This Program will enable the City and County of San Francisco~~
6 ~~to provide necessary public infrastructure to new residents while increasing neighborhood livability~~
7 ~~and investment in the district.~~

8 ~~—(c) Programmed Improvements. General public improvements and amenities needed to meet~~
9 ~~the needs of both existing residents, as well as those needs generated by new development, have been~~
10 ~~identified through the various community planning processes, including the Visitacion Valley/Schlage~~
11 ~~Lock Master Plan, the Executive Park Neighborhood Plan, and the HOPE SF Sunnydale process. The~~
12 ~~City developed generalized cost estimates, based on similar project types implemented by the City in~~
13 ~~the relevant time period, to provide reasonable approximations for the eventual cost of providing~~
14 ~~necessary community improvements to respond to identified community needs. In some cases, design~~
15 ~~work, engineering, and environmental review will be required and may alter the nature of the~~
16 ~~improvements, as well as the sum total of the cost for these improvements.~~

17 ~~—(d) Visitacion Valley Impact Fee. Development impact fees are an effective approach to~~
18 ~~mitigate impacts associated with growth in population. The proposed Visitacion Valley Impact Fee~~
19 ~~would be dedicated to community improvements in the described fee area; directing benefits of the fund~~
20 ~~to those who pay into the fund by providing the necessary infrastructure improvements needed to serve~~
21 ~~new development. The Planning Department has calculated the fee rate based on accepted professional~~
22 ~~methods for the calculation of such fees, and described fully in the Visitacion Valley Nexus Study.~~

23 ~~—The proposed fee would cover less than the full impact of new development. The proposed~~
24 ~~fee only covers a portion of impacts caused by new development and is not intended to remedy existing~~
25 ~~deficiencies. Existing deficiency costs will be paid for by the public, the community, and other private~~

1 *sources. Residential and non-residential impact fees are only one of many revenue sources necessary to*
2 *implement the community improvements outlined in the Plan.*

3

	<i>Nexus</i>
	<i>Amount per sf</i>
<i>Library</i>	<i>17%</i>
<i>Transportation</i>	<i>28%</i>
<i>Parks & Recreation</i>	<i>24%</i>
<i>Child Care</i>	<i>22%</i>
<i>Community Facilities</i>	<i>9%</i>
<i>Total per sf</i>	<i>\$4.58</i>

12

13
14 *(e) The Board of Supervisors has reviewed the record for this item including but not limited to*
15 *the Nexus study, the Planning Department file, the recommendation of the Planning Commission, staff*
16 *analysis, and public testimony and, on that basis finds that the study supports the requirements of the*
17 *Visitaicon Valley Community Facilities and Infrastructure Fee and Fund. Specifically, the Board finds*
18 *that Nexus study and the record: identify the purpose of the fee to mitigate impacts on the demand for*
19 *the identified community facilities and infrastructure; identify the use to which the fee is to be put as*
20 *being to build a new Library; and make improvements to the following community facilities and*
21 *infrastructure: transportation, parks and recreation, childcare, and community facilities; and*
22 *establishes a reasonable relationship between the use of the fee for the identified community facilities*
23 *and infrastructure and the need for these facilities caused by the construction of new residential and*
24 *non-residential development. Moreover, the Board finds that the fee is less than the cost of mitigation*
25

1 ~~and does not include the costs of remedying any existing deficiencies. The Board also finds that the~~
2 ~~Nexus Study establishes that the fee does not duplicate other City requirements or fees.~~

3
4 **SEC. 420.3 APPLICATION OF VISITACION VALLEY COMMUNITY**

5 **IMPROVEMENTS FACILITIES AND INFRASTRUCTURE FEE.**

6 * * * *

7 (d) Timing and Payment of Fee. Any fee required by Section 420.1 et seq. shall be
8 paid to the Development Fee Collection Unit at DBI ~~prior to~~ at the time of and in no event later
9 than issuance of the first construction document, with an option for the project sponsor to defer
10 payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a
11 deferral surcharge that would be deposited into the Visitation Valley Community Facilities and
12 Infrastructure Fund in accordance with Section 402 of this Article and Section 107A.13 of the
13 San Francisco Building Code.

14 * * * *

15
16 **SEC. 420.6. VISITACION VALLEY COMMUNITY IMPROVEMENTS FACILITIES AND**
17 **INFRASTRUCTURE FUND.**

18 (a) There is hereby established a separate fund set aside for a special purpose
19 entitled the Visitation Valley Community Facilities and Infrastructure Fund ("Fund"). All monies
20 collected by DBI pursuant to Section 420.3(b) shall be deposited in the Fund which shall be
21 maintained by the Controller. The receipts in the Fund shall be appropriated in accordance with
22 law through the normal budgetary process to fund public infrastructure and other allowable
23 improvements subject to the conditions of this Section.

24 (b) ~~The receipts in the Fund are, subject to the budgetary and fiscal provisions of the Charter,~~
25 ~~to be used solely to fund community facilities and infrastructure in Visitation Valley, including but not~~

1 ~~limited to capital improvements to library facilities, playgrounds, recreational facilities, open space,~~
 2 ~~childcare, and transportation.~~ All monies deposited in the Fund shall be used solely to design,
 3 engineer, acquire, develop, and improve neighborhood recreation and open spaces, pedestrian and
 4 streetscape improvements, childcare facilities, bicycle infrastructure and other improvements that
 5 result in new publicly accessible facilities and related resources within the Visitacion Valley or within
 6 250 feet of the Visitacion Valley Fee Area. The Fund shall be allocated in accordance with Table
 7 420.6A.

8 **Table 420.6A**

9 **Breakdown of Use of Visitacion Valley Community Improvements Fund by Infrastructure**
 10 **Type**

<u>Improvement Type</u>	<u>Dollars Received From Residential Development</u>	<u>Dollars Received From Non-Residential Development</u>
<u>Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Infrastructure</u>	<u>45%</u>	<u>45%</u>
<u>Recreation and Open Space</u>	<u>30%</u>	<u>30%</u>
<u>Childcare</u>	<u>20%</u>	<u>20%</u>
<u>Program Administration</u>	<u>5%</u>	<u>5%</u>

21 (c) **Program Administration.** No portion of the Fund may be used, by way of loan or
 22 otherwise, to pay any administrative, general overhead, or similar expense of any public
 23 entity, except for the administration of this fund in an amount not to exceed 45% of the total
 24 annual revenue. Administration of this fund includes maintenance of the Fund, time and materials
 25 associated with processing and approving fee payments and expenditures from the Fund (including

1 necessary hearings), reporting or informational requests related to the Fund, and coordination
2 between public agencies regarding determining and evaluating appropriate expenditures of the Fund.
3 Monies from the Fund may be used by the Planning Commission to commission economic analyses for
4 the purpose of revising the fee under Section 418.3 above, to complete a nexus study to demonstrate or
5 update the relationship between residential development and the need for public facilities, or to
6 commission landscape, architectural or other planning, design and engineering services in support of
7 the proposed public improvements. All interest earned on this account shall be credited to the
8 Visitacion Valley Improvements Fund.

9 (d) Acquisition of New Open Space. A public hearing shall be held by the Recreation
10 and Parks Commissions to elicit public comment on proposals for the acquisition of property
11 using monies in the Fund or through agreements for financing In-Kind Community
12 Improvements via a Mello-Roos Community Facilities District that will ultimately be maintained
13 by the Department of Recreation and Parks. Notice of public hearings shall be published in an
14 official newspaper at least 20 days prior to the date of the hearing, which notice shall set forth
15 the time, place, and purpose of the hearing. The Parks Commissions may vote to recommend
16 to the Board of Supervisors that it appropriate money from the Fund for acquisition of property
17 for park use and for development of property acquired for park use.

18 (e) The Planning Commission shall work with other City agencies and
19 commissions, specifically the Department of Recreation and Parks, DPW, and the
20 ~~Metropolitan~~ San Francisco Municipal Transportation Agency, to develop agreements related to
21 the administration of the improvements to existing and development of new public facilities
22 within public rights-of-way or on any acquired property designed for park use, ~~using such~~
23 ~~monies as have been allocated for that purpose at a hearing of the Board of Supervisors.~~ The proposed
24 expenditure plan shall be subject to approval by the Board of Supervisors.
25

1 (f) The Director of Planning shall have the authority to prescribe rules and
2 regulations governing the Fund, which are consistent with this Section 420.1 et seq. The
3 Director of Planning, as the head of the Interagency Plan Implementation Committee (IPIC), shall
4 make recommendations to the Board regarding allocation of funds.

5 ~~(g) The Controller's Office shall file a report with the Board of Supervisors in even-~~
6 ~~numbered years, which report shall set forth the amount of money collected in the Fund.~~

7
8 **SEC. 421.1. PURPOSE AND FINDINGS SUPPORTING THE MARKET AND OCTAVIA**
9 **COMMUNITY IMPROVEMENTS FUND.**

10 (a) Purpose. The Board takes legislative notice of the purpose of the Market and Octavia
11 Area Plan ("Area Plan") as articulated in the Market and Octavia Area Plan of the San Francisco
12 General Plan. In general, the Market and Octavia Area Plan A. Market and Octavia Plan Objectives.
13 ~~The Market and Octavia Area Plan~~ embodies the community's vision of a better neighborhood,
14 which achieves multiple objectives including creating a healthy, vibrant transit-oriented
15 neighborhood. ~~The Planning Department coordinated development of the Area Plan objectives~~
16 ~~around the tenants of the Better Neighborhood Planning process and within the larger framework of~~
17 ~~the General Plan.~~

18 —The Market and Octavia Plan Area encompasses a variety of districts, most of
19 which are primarily residential or neighborhood commercial. The Area Plan calls for a
20 maintenance of the well-established neighborhood character in these districts with a shift to a
21 more transit-oriented type of districts. A transit-oriented district, be it neighborhood
22 commercial or residential in character, generates a unique type of infrastructure needs.

23 The overall objective of the Market and Octavia planning effort is to encourage
24 balanced growth in a centrally located section of the City that is ideal for transit oriented
25 development. The Area Plan calls for an increase in housing and retail capacity simultaneous

1 to infrastructure improvements in an effort to maintain and strengthen neighborhood
2 character. In addition, the Board notes the findings made in the Market and Octavia Area Plan that
3 support the establishment of the Market and Octavia Community Improvements Fund.

4 ~~—B. Need for New Housing and Retail. New residential construction in San Francisco is~~
5 ~~necessary to accommodate a growing population. The population of California has grown by more~~
6 ~~than 11 percent since 1990 and is expected to continue increasing. The San Francisco Bay Area is~~
7 ~~growing at a rate similar to the rest of the state.~~

8 ~~—The City should encourage new housing production in a manner that enhances existing~~
9 ~~neighborhoods and creates new high-density residential and mixed-use neighborhoods. One solution to~~
10 ~~the housing crisis is to encourage the construction of higher density housing in areas of the City best~~
11 ~~able to accommodate such housing. Areas like the Plan Area can better accommodate growth because~~
12 ~~of easy access to public transit, proximity to downtown, convenience of neighborhood shops to meet~~
13 ~~daily needs, and the availability of development opportunity sites. San Francisco's land constraints, as~~
14 ~~described in Section 418.1(A), limit new housing construction to areas of the City not previously~~
15 ~~designated as residential areas, infill sites, or areas that can absorb increased density.~~

16 ~~—The Market and Octavia Plan Area presents opportunity for infill development on various~~
17 ~~sites, including parcels along Octavia Boulevard known as "the Central Freeway parcels," some~~
18 ~~parcels along Market Street, and the SoMa West portions of the Plan Area. These sites are compelling~~
19 ~~opportunities because new housing can be built within easy walking distance of the downtown and~~
20 ~~Civic Center employment centers and City and regional transit centers, while maintaining the~~
21 ~~comfortable residential character and reinforcing the unique and exciting neighborhood qualities.~~

22 ~~—To respond to the identified need for housing, repair the fabric of the neighborhood, and~~
23 ~~support transit-oriented development, the Market and Octavia Plan Area is zoned for the appropriate~~
24 ~~residential and commercial uses. The Planning Department is adding a Van Ness Market Downtown~~
25 ~~Residential Special Use District (VNMDR-SUD) in the Plan Area and establishing a Residential~~

1 ~~Transit-oriented (RTO) district and several Neighborhood Commercial Transit (NCT) districts. New~~
2 ~~zoning controls encourage housing and commercial development appropriate to each district.~~

3 ~~—The plan builds on existing neighborhood character and establishes new standards for~~
4 ~~amenities necessary for a transit-oriented neighborhood. A transit-oriented neighborhood requires a~~
5 ~~full range of neighborhood serving businesses. New retail and office space will provide both~~
6 ~~neighborhood and City-serving businesses.~~

7 ~~—San Francisco is experiencing a severe shortage of housing available to people at all~~
8 ~~income levels, especially to those with the lowest incomes while seeing a sharp increase in housing~~
9 ~~prices. The Association of Bay Area Governments' (ABAG) Regional Housing Needs Determination~~
10 ~~(RHND) forecasts that San Francisco must produce 2,716 new units of housing annually to meet~~
11 ~~projected needs. At least 5,639 of these new units should be available to moderate income households.~~
12 ~~New affordable units are funded through a variety of sources, including inclusionary housing and in~~
13 ~~lieu fees leveraged by new market rate residential development pursuant to Sections 413 and 415. The~~
14 ~~Planning Department projects that approximately 1,400 new units of affordable housing will be~~
15 ~~developed as a result of the plan. New Development Requires new Community Infrastructure. The~~
16 ~~purpose for new development in the Plan Area is established above (Section 421.1(A)). For example,~~
17 ~~New construction should not diminish the City's open space, jeopardize the City's Transit~~
18 ~~First Policy, or place undue burden on the City's service systems. The new residential and~~
19 ~~non-residential construction should preserve the existing neighborhood services and~~
20 ~~character, as well as increase the level of service for all modes necessary to support transit-~~
21 ~~oriented development. New development in the area will create additional impact on the local~~
22 ~~infrastructure, thus generating a substantial need for community improvements as the~~
23 ~~district's population and workforce grows.~~

24 ~~—The amendments to the General Plan, Planning Code, and Zoning Maps that correspond to~~
25 ~~Section 421.1 et seq. will permit an increased amount of new residential and commercial development.~~

1 *The Planning Department anticipates an increase of 5,960 units within the next 20 years, and an*
2 *increase of 9,875 residents, as published in the environmental impact report. This new development*
3 *will have an extraordinary impact on the Plan Area's infrastructure including new development in the*
4 *adjacent Upper Market NCD. As described more fully in the Market and Octavia Plan Final*
5 *Environmental Impact Report, on file with the Clerk of the Board in File No. 071157, and the Market*
6 *and Octavia Community Improvements Program Document, San Francisco Planning Department on*
7 *file with the Clerk of the Board in File No. 071157, new development will generate substantial new*
8 *pedestrian, vehicle, bicycle, and transit trips which will impact the area. The transition to a new type of*
9 *district is tantamount to the development of new subdivisions, or the transition of a district type, in*
10 *terms of the need for new infrastructure.*

11 *—The Market and Octavia Area Plan proposes to mitigate these impacts by providing*
12 *extensive pedestrian, transit, traffic calming and other streetscape improvements that will encourage*
13 *residents to make as many daily trips as possible on foot, by bicycle or on transit; by creating new open*
14 *space, greening, and recreational facilities that will provide necessary public spaces; and by*
15 *establishing a range of other services and programming that will meet the needs of community*
16 *members. A comprehensive program of new public infrastructure is necessary to lessen the impacts of*
17 *the proposed new development and to provide the basic community improvements to the area's new*
18 *community members. The Market and Octavia Community Improvements Program Document provides*
19 *a more detailed description of proposed Community Improvements.*

20 *—In order to enable San Francisco to provide necessary public services to new residents; to*
21 *maintain and improve the Market and Octavia Plan Area character and Upper Market NCD; and to*
22 *increase neighborhood livability and investment in the district, it is necessary to upgrade existing*
23 *streets and streetscaping; acquire and develop neighborhood parks, recreation facilities and other*
24 *community facilities to serve the new residents and workers.*

1 —~~While the open space requirements imposed on individual developments address minimum~~
2 ~~needs for private open space and access to light and air, such open space does not provide the~~
3 ~~necessary public social and recreational opportunities as attractive public facilities such as sidewalks,~~
4 ~~parks and other community facilities that are essential urban infrastructure, nor does it contribute to~~
5 ~~the overall transformation of the district into a safe and enjoyable transit-oriented neighborhood.~~

6 —~~C. Program Scope.~~ The purpose of the proposed Market and Octavia Community
7 Infrastructure Impact Fees is to provide specific public improvements, including community
8 open spaces, pedestrian and streetscape improvements and other facilities and services.
9 These improvements are described in the Market and Octavia Area Plan and Neighborhood
10 Plan and the accompanying ordinances, and are necessary to meet established City
11 standards for the provision of such facilities. The Market and Octavia Community
12 Improvements Fund and Community Infrastructure Impact Fee will create the necessary
13 financial mechanism to fund these improvements in proportion to the need generated by new
14 development.

15 **(b) Findings.** The Board of Supervisors has reviewed the San Francisco Citywide Nexus
16 Analysis prepared by AECOM dated March 2014 (“Nexus Analysis”), and the San Francisco
17 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
18 Clerk of the Board in File No. _____ and, under Section 401A, adopts the findings and
19 conclusions of those studies and the general and specific findings in that Section, specifically including
20 the Recreation and Open Space Findings, Pedestrian and Streetscape Findings, Childcare Findings,
21 and Bicycle Infrastructure Findings and incorporates those by reference herein to support the
22 imposition of the fees under this Section.

23 The Board takes legislative notice of the findings supporting these fees in former Planning Code
24 Section 421.1 (formerly Section 326 et seq.) and the materials associated with Ordinance No. 72-08 in
25 Board File No. 071157. To the extent that the Board previously adopted fees in this Area Plan that are

1 not covered in the analysis of the 4 infrastructure areas analyzed in the Nexus Analysis, including but
2 not limited to fees related to transit, the Board continues to rely on its prior analysis and the findings it
3 made in support of those fees. — National and international transportation studies (such as the Dutch
4 Pedestrian Safety Research Review. T. Hummel, SWOV Institute for Road Safety Research (Holland),
5 and University of North Carolina Highway Safety Research Center for the U.S. Department of
6 Transportation, 1999 on file with the Clerk of the Board have demonstrated that pedestrian, traffic-
7 calming and streetscape improvements of the type proposed for the Market and Octavia Plan Area
8 result in safer, more attractive pedestrian conditions. These types of improvements are essential to
9 making pedestrian activity a viable choice, thereby helping to mitigate traffic impacts associated with
10 excess automobile trips that could otherwise be generated by new development.

11 — The proposed Market and Octavia Community Infrastructure Impact Fee is necessary to
12 maintain progress towards relevant state and national service standards, as well as local standards in
13 the Goals and Objectives of the General Plan for open space and streetscape improvements as
14 discussed in Section 418.1(F). Additionally the fee contributes to library resources and childcare
15 facilities standards discussed below:

16 — Library Resources: New residents in Plan Area will generate a substantial new need for
17 library services. The San Francisco Public Library does not anticipate adequate demand for a new
18 branch library in the Market and Octavia Plan Area at this time. However, the increase in population
19 in Plan Area will create additional demand at other libraries, primarily the Main Library and the
20 Eureka Valley Branch Library. The Market and Octavia Community Infrastructure Impact Fee includes
21 funding for library services equal to \$69.00 per new resident, which is consistent with the service
22 standards used by the San Francisco Public Library for allocating resources to neighborhood branch
23 libraries. Child Care Facilities: New households in the Plan Area will generate a need for additional
24 childcare facilities. Childcare services are integral to the financial and social success of families.
25 Nationwide, research and policies are strengthening the link between childcare and residential growth,

1 ~~many Bay Area counties are leading in efforts to finance new childcare through new development. San~~
2 ~~Mateo has conducted detailed research linking housing to childcare needs. Santa Clara County has~~
3 ~~developed exemplary projects that provide childcare facilities in proximity to transit stations, and~~
4 ~~Santa Cruz has levied a fee on residential development to fund childcare. Similarly many research~~
5 ~~efforts have illustrated that adequate childcare services are crucial in supporting a healthy local~~
6 ~~economy, see research conducted by Louise Stoney, Mildred Warner, PPIC, County of San Mateo, CA~~
7 ~~on file with the Clerk of the Board. MOCD's Project Connect Report identified childcare as an~~
8 ~~important community service in neighboring communities. Project connect did not survey the entire~~
9 ~~Market and Octavia Plan Area, it focused on low income communities, including Market and Octavia's~~
10 ~~neighbors in the Mission, Western Addition, and the Tenderloin. The Department of Children Youth~~
11 ~~and Their Families projects new residents of Market and Octavia will generate demand for an~~
12 ~~additional 435 childcare spaces, of those 287 will be serviced through new child care development~~
13 ~~centers.~~

14 ~~—D. Programmed Improvements and Costs. Community improvements to mitigate the impact~~
15 ~~of new development in the Market and Octavia Plan Area were identified through a community~~
16 ~~planning process, based on proposals in the Market and Octavia Area Plan on file with the Clerk of the~~
17 ~~Board in File No. 071158, and on a standards based analysis, and on community input during the Plan~~
18 ~~adoption process. The Planning Department developed cost estimates to the extent possible for all~~
19 ~~proposed improvements. These are summarized by use type in Table 1. Cost projections in Table 1 are~~
20 ~~realistic estimates made by the Planning Department of the actual costs for improvements needed to~~
21 ~~support new development. More information on these cost estimates is located in the Market and~~
22 ~~Octavia Community Improvements Program Document. Cost estimates for some items on Table 1 are~~
23 ~~to be determined through ongoing analyses conducted in coordination with implementation of the~~
24 ~~Market and Octavia Plan Community Improvements Program. In many cases these projects require~~
25 ~~further design work, engineering, and environmental review, which may alter the nature of the~~

1 *improvements; the cost estimates are still reasonable approximates for the eventual cost of providing*
 2 *necessary community improvements to respond to identified community needs. The Board of*
 3 *Supervisors is not committing to the implementation of any particular project at this time. Projects may*
 4 *be substituted for like projects should new information from the Citizens Advisory Committee, the*
 5 *Interagency Plan Implementation Committee, other stakeholders, or the environmental review process*
 6 *illustrate that substitute projects should be prioritized. Cost projections will be updated at a minimum*
 7 *approximately every five years after adoption.*

8 *Table 1.*

9 *Cost of proposed community improvements in the Market and Octavia Plan Area.*

<i>Market and Octavia Community Improvements</i>	
<i>Greening</i>	<i>\$58,310,000</i>
<i>Parks</i>	<i>\$6,850,000</i>
<i>Park Improvements</i>	<i>\$ TBD</i>
<i>Vehicle</i>	<i>\$49,260,000</i>
<i>Pedestrian</i>	<i>\$23,760,000</i>
<i>Transportation</i>	<i>\$81,180,000</i>
<i>Transit User</i>	<i>\$ TBD</i>
<i>Infrastructure</i>	
<i>Bicycle</i>	<i>\$1,580,000</i>
<i>Childcare</i>	<i>\$17,170,000</i>
<i>Library Materials</i>	<i>\$690,000</i>
<i>Recreational Facilities</i>	<i>\$15,060,000</i>
<i>Future Studies</i>	<i>\$460,000</i>

<i>Program Administration</i>	<i>\$4,730,000</i>
<i>Total</i>	<i>\$258,900,000</i>

Provision of affordable housing needs are addressed in Sections 413 and 415 of this Code. Additionally subsidized affordable housing may be granted a waiver from the Market and Octavia Community Improvement Fee as provided for in Section 406 of this Article. This waiver may be leveraged as a local funding 'match' to Federal and State affordable housing subsidies enabling affordable housing developers to capture greater subsidies for projects in the Plan Area.

~~E. Sharing the Burden. As detailed above, new development in the Plan Area will clearly generate new infrastructure demands.~~

~~To fund such community infrastructure and amenities, new development in the district shall be assessed development impact fees proportionate to the increased demand for such infrastructure and amenities. The City will use the proceeds of the fee to build new infrastructure and enhance existing infrastructure, as described in preceding sections. A Community Infrastructure Impact Fee shall be established for the Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD), and the Neighborhood Commercial Transit (NCT) and the Upper Market Neighborhood Commercial District and Residential Transit Oriented (RTO) Districts as set forth herein.~~

~~Many counties, cities and towns have one standardized impact fee schedule that covers the entire municipality. Although this type of impact fee structure works well for some types of infrastructure, such as affordable housing and basic transportation needs, it cannot account for the specific improvements needed in a neighborhood to accommodate specific growth. A localized impact fee gives currency to the community planning process and encourages a strong nexus between development and infrastructure improvements.~~

~~Development impact fees are an effective approach to achieve neighborhood mitigations and associate the costs with new residents, workers, and a new kind of development. The proposed Market and Octavia Community Infrastructure Impact Fee would be dedicated to infrastructure~~

1 ~~improvements in the Plan Area and the Upper Market NCD, directing benefits of the fund clearly to~~
2 ~~those who pay into the fund, by providing necessary infrastructure improvements, needed to serve new~~
3 ~~development. The net increases in individual property values in these areas due to the enhanced~~
4 ~~neighborhood amenities financed with the proceeds of the fee are expected to exceed the payments of~~
5 ~~fees by project sponsors.~~

6 ~~—The fee rate has been calculated by the Planning Department based on accepted~~
7 ~~professional methods for the calculation of such fees. The Market and Octavia Community~~
8 ~~Improvements Program Document contains a full discussion of impact fee calculation. Cost estimates~~
9 ~~are based on an assessment of the potential cost to the City of providing the specific improvements~~
10 ~~described in the Market and Octavia Plan Area. The Department assigned a weighted value to new~~
11 ~~construction based on projected population increases in relation to the total population.~~

12 ~~—The proposed fee would cover less than 80% of the estimated costs of the community~~
13 ~~improvements calculated as necessary to mitigate the impacts of new development. By charging~~
14 ~~developers less than the maximum amount of the justified impact fee, the City avoids any need to refund~~
15 ~~money to developers if the fees collected exceed costs. The proposed fees only cover impacts caused by~~
16 ~~new development and are not intended to remedy existing deficiencies; those costs will be paid for by~~
17 ~~public, community, and other private sources.~~

18 ~~—The Market and Octavia community improvements program relies on public, private, and~~
19 ~~community capital. Since 2000, when the Market and Octavia planning process was initiated, the area~~
20 ~~has seen upwards of \$100 million in public investment, including the development of Octavia~~
21 ~~Boulevard, the new Central freeway ramp, Patricia's Green in Hayes Valley and related projects.~~
22 ~~Additionally private entities have invested in the area by improving private property and creating new~~
23 ~~commercial establishments. Community members have invested by creating a Community Benefits~~
24 ~~District in the adjacent Castro neighborhood, organizing design competitions, and lobbying for~~
25 ~~community programming such as a rotating arts program on Patricia's Green in Hayes Valley. Project~~

1 ~~sponsor contributions to the Market and Octavia Community Improvements Fund will help leverage~~
2 ~~additional public and community investment.~~

3 ~~—As a result of this new development, projected to occur over a 20-year period, property tax~~
4 ~~revenue is projected to increase by as much as \$28 million annually when projected housing~~
5 ~~production is complete. Sixteen million dollars of this new revenue will be diverted directly to San~~
6 ~~Francisco (see the Market and Octavia Community Improvements Program Document for a complete~~
7 ~~discussion of increased property tax revenue). These revenues will fund improvements and expansions~~
8 ~~to general City services, including police, fire, emergency, and other services needed to partially meet~~
9 ~~increased demand associated with new development. New development's local impact on community~~
10 ~~infrastructure will be greater in the Market and Octavia Plan Area, relative to those typically funded by~~
11 ~~City government through property tax revenues. Increased property taxes will contribute to continued~~
12 ~~maintenance and service delivery of new infrastructure and amenities. The City should pursue State~~
13 ~~enabling legislation that directs growth-related increases in property tax directly to the neighborhood~~
14 ~~where growth is happening, similar to the redevelopment agencies' Tax Increment Financing tool. If~~
15 ~~such a revenue dedication tool does become available, the Planning Department should pursue an~~
16 ~~ordinance to adopt and apply a tax increment district to the Market and Octavia Plan Area even if the~~
17 ~~Plan is already adopted by the Board of Supervisors and in effect. The relative cost of capital~~
18 ~~improvements, along with the reduced role of State and Federal funding sources, increases the~~
19 ~~necessity for development impact fees to cover these costs. Residential and commercial impact fees are~~
20 ~~one of the many revenue sources necessary to mitigate the impacts of new development in the Market~~
21 ~~and Octavia Plan Area.~~

22
23 **SEC. 421.3. APPLICATION OF MARKET AND OCTAVIA COMMUNITY**
24 **IMPROVEMENTS IMPACT FEE**

25 * * * *

1 (f) Timing of Fee Payments. The Market and Octavia Community Improvements
2 Impact Fee is due and payable to the Development Fee Collection Unit at DBI ~~prior to~~ at the
3 time of and in no event later than issuance of the first construction document, with an option for
4 the project sponsor to defer payment to prior to issuance of the first certificate of occupancy
5 upon agreeing to pay a deferral surcharge that would be paid into the appropriate fund in
6 accordance with Section 107A.13.3 of the San Francisco Building Code.

7 * * * *

8
9 **SEC. 421.5. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS FUND.**

10 (a) Purpose. There is hereby established a separate fund set aside for a special
11 purpose entitled the Market and Octavia Community Improvements Fund ("Fund"). All monies
12 collected by DBI pursuant to Section 421.3 (b) shall be deposited in ~~a the special~~ Ffund
13 maintained by the Controller. ~~The receipts in the Fund to be used solely to fund community~~
14 ~~improvements subject to the conditions of this Section. The receipts in the Fund shall be appropriated~~
15 ~~in accordance with law through the normal budgetary process to fund public infrastructure and other~~
16 ~~allowable improvements subject to the conditions of this Section.~~

17 (b) Use of Funds. The Fund shall be administered by the Board of Supervisors.

18 (1) Infrastructure. All monies deposited in the Fund shall be used to design,
19 engineer, acquire, improve, and develop and improve neighborhood open spaces, pedestrian
20 and streetscape improvements, bicycle infrastructure, ~~community facilities~~, child-care facilities,
21 and other improvements that result in new publicly-accessible facilities and related resources
22 within the Market and Octavia Plan Area or within 250 feet of the Plan Area and within the
23 Upper Market Street Neighborhood Commercial District which is outside the plan area. Funds
24 may be used for childcare facilities that are not publicly owned or publicly-accessible. The
25 improvements, where applicable, shall be consistent with the Market and Octavia Civic Streets and

1 Open Space System as described in Map 4 of the Market and Octavia Area Plan of the General Plan,
 2 and Market and Octavia Improvements Plan-. The funds shall be allocated in accordance with Table
 3 421.5A.

4 **Table 421.5A. Breakdown of Use of Market and Octavia Community Improvements**
 5 **Fee by Infrastructure Type.**

<u>Improvement Type</u>	<u>Dollars Received From Residential Development</u>	<u>Dollars Received From Non-Residential</u>
<u>Complete Streets: Pedestrian and Streetscape Improvements,</u> <u>Bicycle Facilities</u>	<u>44%</u>	<u>61%</u>
<u>Transit</u>	<u>22%</u>	<u>20%</u>
<u>Recreation and Open Space</u>	<u>21%</u>	<u>14%</u>
<u>Childcare</u>	<u>8%</u>	<u>Not applicable</u>
<u>Program Administration</u>	<u>5%</u>	<u>5%</u>

<i>Components of Proposed Impact Fee</i>	<i>Residential</i>	<i>Commercial</i>
--	--------------------	-------------------

<i>Greening</i>	<i>34.1%</i>	<i>50.2%</i>
<i>Parks</i>	<i>8.2%</i>	<i>13.8%</i>
<i>Park Improvements</i>	<i>tbd</i>	<i>tbd</i>
<i>Vehicle</i>	<i>0.4%</i>	<i>0.4%</i>
<i>Pedestrian</i>	<i>6.9%</i>	<i>6.2%</i>

1	<i>Transportation</i>	<i>22.2%</i>	<i>20.1%</i>
2	<i>Transit User</i>		
3	<i>Infrastructure</i>	<i>tbd</i>	<i>tbd</i>
4	<i>Bicycle</i>	<i>0.5%</i>	<i>0.4%</i>
5	<i>Childcare</i>	<i>8.3%</i>	<i>0.0%</i>
6	<i>Library Materials</i>	<i>0.9%</i>	<i>0.0%</i>
7	<i>Recreational</i>		
8	<i>Facilities</i>	<i>13.1%</i>	<i>0.0%</i>
9	<i>Future Studies</i>	<i>0.2%</i>	<i>.4%</i>
10	<i>Program</i>		
11	<i>Administration</i>	<i>5.1%</i>	<i>8.6%</i>

12 *Funds may be used for childcare facilities that are not publicly owned or "publicly accessible".*
13 *Funds generated for 'library resources' should be used for materials at the Main Library, the Eureka*
14 *Valley Library, or other library facilities that directly service Market and Octavia Residents. Funds*
15 *may be used for additional studies and fund administration as detailed in the Market and Octavia*
16 *Community Improvements Program Document. These improvements shall be consistent with the*
17 *Market and Octavia Civic Streets and Open Space System as described in Map 4 of the Market and*
18 *Octavia Area Plan of the General Plan, and any Market and Octavia Improvements Plan. Monies from*
19 *the Fund may be used by the Planning Commission to commission economic analyses for the purpose*
20 *of revising the fee pursuant to Section 421.3(e) above, to complete an updated nexus study to*
21 *demonstrate the relationship between development and the need for public facilities if this is deemed*
22 *necessary.*

23 (2) **Program Administration.** No portion of the Fund may be used, by way of
24 loan or otherwise, to pay any administrative, general overhead, or similar expense of any
25

1 public entity, except for the purposes of administering this fund in an amount not to exceed 5 % of
2 the total annual revenue. Administration of this fund includes time and materials associated with
3 processing and approving fee payments and expenditures from the Fund (including necessary
4 hearings), reporting or informational requests related to the Fund, and coordination between public
5 agencies regarding determining and evaluating appropriate expenditures of the Fundreporting
6 requirements, facilitating the Market and Octavia Citizens Advisory Committee meetings, and
7 maintenance of the fund. Total expenses associated with administration of the fund shall not exceed the
8 proportion calculated in Table 2 (above). Monies from the Fund may be used by the Planning
9 Commission to commission economic analyses for the purpose of revising the fee or to complete an
10 updated nexus study to demonstrate the relationship between development and the need for public
11 facilities if this is deemed necessary. All interest earned on this account shall be credited to the
12 Market and Octavia Community Improvements Fund.

13 (c) ~~With full participation by the Planning Department and related implementing agencies the~~
14 ~~Controller's Office shall file a report with the Board of Supervisors in even numbered years, which~~
15 ~~report shall include the following elements: (1) a description of the type of fee in each account or fund;~~
16 ~~(2) amount of the fee; (3) beginning and ending balance of the accounts or funds including any bond~~
17 ~~funds held by an outside trustee; (4) amount of fees collected and interest earned; (5) identification of~~
18 ~~each public improvement on which fees or bond funds were expended and amount of each expenditure;~~
19 ~~(6) an identification of the approximate date by which the construction of public improvements will~~
20 ~~commence; (7) a description of any inter-fund transfer or loan and the public improvement on which~~
21 ~~the transferred funds will be expended; and (8) allocations of unexpended fees that are not refunded.~~

22 (d) Acquisition of New Open Space. A public hearing shall be held by the Recreation and
23 Parks Commission to elicit public comment on proposals for the acquisition of property using
24 monies in the Fund in the Fund or through agreements for financing In-Kind Community
25 Improvements via a Mello-Roos Community Facilities District that will ultimately be maintained

1 by the Department of Recreation and Parks. Notice of public hearings shall be published in an
2 official newspaper at least 20 days prior to the date of the hearing, which notice shall set forth
3 the time, place, and purpose of the hearing. The Parks Commission may vote to recommend
4 to the Board of Supervisors that it appropriate money from the Fund for acquisition of property
5 for park use and for development of property acquired for park use.

6 (de) The Planning Commission shall work with other City agencies and commissions,
7 specifically the Department of Recreation and Parks, DPW, and the Metropolitan San Francisco
8 Municipal Transportation Agency, to develop a proposed expenditure plan, and to develop
9 agreements related to the administration of the improvements to existing and development of
10 new public facilities within public rights-of-way or on any acquired property designed for park
11 use, ~~using such monies as have been allocated for that purpose at a hearing of the Board of~~
12 ~~Supervisors. The proposed expenditure plan shall be approved by the Board of Supervisors.~~

13 (ef) The Director of Planning shall have the authority to prescribe rules and
14 regulations governing the Fund, which are consistent with this Section 421.1 et seq. The
15 Director of Planning, as the head of the Interagency Plan Implementation Committee (IPIC), shall
16 make recommendations to the Board regarding allocation of funds.

17
18 **SEC. 422.1. PURPOSE AND FINDINGS IN SUPPORT OF BALBOA PARK COMMUNITY**
19 **IMPROVEMENTS FUND.**

20 (a) Purpose. A. ~~New Residential and Non-Residential Uses. The Board takes legislative~~
21 notice of the purpose of the Balboa Park Station Area Plan as articulated in the Balboa Park Station
22 Area Plan of the San Francisco General Plan. The Balboa Park Station Area Plan is a part of the
23 Better Neighborhoods Program that recognizes population growth is beneficial in
24 neighborhoods well-served by transit. As such, the Balboa Park Area Plan aims to strengthen
25 neighborhood character, the neighborhood commercial district, and transit by increasing the

1 housing and retail capacity in the area. This project goal will also help to meet ABAG's
2 projected demand to provide housing in the Bay Area by encouraging the construction of
3 higher density housing. The Balboa Park Plan Area can better accommodate this growth
4 because of its easy access to public transit, proximity to downtown, convenience of
5 neighborhood shops to meet daily needs, and the availability of development opportunity
6 sites. San Francisco's land constraints limit new housing construction to areas of the City not
7 previously designated as residential areas, infill sites, or areas that can absorb increased
8 density. The Balboa Park Plan Area presents an opportunity to both absorb increased density
9 and provide infill development within easy walking distance to transit while maintaining
10 neighborhood character. ~~The Better Neighborhoods Program also calls for strong neighborhood~~
11 ~~commercial cores and a transit-oriented neighborhood requires a full range of neighborhood serving~~
12 ~~businesses.~~ The Plan builds on existing neighborhood character and establishes new standards
13 for amenities necessary for a transit-oriented neighborhood.

14 In addition, the Board takes legislative notice of the findings made in the Balboa Park Station
15 Area Plan that support the establishment of the Balboa Park Community Improvements Fund.

16 (b) Findings. The Board of Supervisors has reviewed the San Francisco Citywide Nexus
17 Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and the San Francisco
18 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
19 Clerk of the Board in File No. _____ and, under Section 401A, adopts the findings and
20 conclusions of those studies and the general and specific findings in that Section, specifically including
21 the Recreation and Open Space Findings, Pedestrian and Streetscape Findings, Childcare Findings,
22 and Bicycle Infrastructure Findings and incorporates those by reference herein to support the
23 imposition of the fees under this Section.

24 The Board takes legislative notice of the findings supporting these fees in former Planning Code
25 Section 422.1 (formerly Section 331 et seq.) and the materials associated with Ordinance No. 61-09 in

1 Board File No. 090181 and the Balboa Park Community Improvements Program, on file with the Clerk
2 of the Board in File No. 090179. To the extent that the Board previously adopted fees in this Area Plan
3 that are not covered in the analysis of the four infrastructure areas analyzed in the Nexus Analysis,
4 including but not limited to fees related to transit, the Board continues to rely on its prior analysis and
5 the findings it made in support of those fees.

6 ~~—B. Need for Public Improvements to Accompany New Uses. The amendments to the General~~
7 ~~Plan, Planning Code, and Zoning Maps that correspond to Section 422.1 et seq. will permit an~~
8 ~~increased amount of new housing and other uses, as noted above. The Planning Department anticipates~~
9 ~~an increase of at least 1,780 new housing units within the next 20 years, and over 225 new jobs, as~~
10 ~~described in the Balboa Park Station Area Plan Draft Environmental Impact Report and the~~
11 ~~Community Improvements Program. This new development will have an impact on the Plan Area's~~
12 ~~neighborhood infrastructure. New development will generate needs for street improvements, transit~~
13 ~~improvements, and community facilities and services improvements. As described in the Balboa Park~~
14 ~~Community Improvements Program, on file with the Clerk of the Board in File No. 090179. The Balboa~~
15 ~~Park Station Area Plan addresses existing deficiencies and new impacts through a comprehensive~~
16 ~~package of public benefits described in the Balboa Park Community Improvements Program. This~~
17 ~~Program will enable the City and County of San Francisco to provide necessary public infrastructure~~
18 ~~to new residents while increasing neighborhood livability and investment in the district.~~

19 ~~—C. Project Feasibility. Due to the high cost of land within the City, it has been determined~~
20 ~~that the imposition of requirements and fees based on the full impact of new development would be~~
21 ~~overly burdensome to new development and hinder the City's policy goal of providing a significant~~
22 ~~amount of new housing. Therefore, impact fees have been set at a level that will not hinder this policy~~
23 ~~goal overall.~~

24 ~~—D. Programmed Improvements. General public improvements and amenities needed to meet~~
25 ~~the needs of both existing residents, as well as those needs generated by new development, have been~~

1 ~~identified through a community planning processes. The Planning Department developed generalized~~
2 ~~cost estimates, based on similar project types implemented by the City in the relevant time period, to~~
3 ~~provide reasonable approximates for the eventual cost of providing necessary community~~
4 ~~improvements to respond to identified community needs. In some cases, design work, engineering, and~~
5 ~~environmental review will be required and may alter the nature of the improvements, as well as the sum~~
6 ~~total of the cost for these improvements.~~

7 ~~—E. Balboa Park Impact Fee. Development impact fees are an effective approach to mitigate~~
8 ~~impacts associated with growth in population. The proposed Balboa Park Impact Fee would be~~
9 ~~dedicated to community improvements in the Plan Area; directing benefits of the fund to those who pay~~
10 ~~into the fund by providing the necessary infrastructure improvements needed to serve new development.~~
11 ~~The Planning Department has calculated the fee rate based on accepted professional methods for the~~
12 ~~calculation of such fees, and described fully in the Balboa Park Community Improvements Program,~~
13 ~~San Francisco Planning Department, Case No. 2004.1059U on file with the Clerk of the Board in File~~
14 ~~No. 090179.~~

15 ~~—The proposed fee would cover less than the full impact of new development. The proposed~~
16 ~~fee only covers a portion of impacts caused by new development and is not intended to remedy existing~~
17 ~~deficiencies. Existing deficiency costs will be paid for by the public, the community, and other private~~
18 ~~sources as described in the Balboa Park Community Improvements Program. Residential and non-~~
19 ~~residential impact fees are only one of many revenue sources necessary to implement the community~~
20 ~~improvements outlined in the Plan.~~

21
22 **SEC. 422.3. APPLICATION OF COMMUNITY IMPROVEMENT IMPACT FEE.**

23 * * * *

24 (e) **Timing of Fee Payments.** The Balboa Park Impact Fee is due and payable to the
25 Development Fee Collection Unit at DBI ~~prior to~~ at the time of and in no event later than issuance

1 of the first construction document for the development project deferred to prior to issuance of
2 the first certificate of occupancy pursuant to Section 107A.13.3.1 of the San Francisco
3 Building Code.

4 * * * *

5
6 **SEC. 422.5. BALBOA PARK COMMUNITY IMPROVEMENTS FUND.**

7 (a) Purpose. There is hereby established a separate fund set aside for a special
8 purpose entitled the Balboa Park Community Improvements Fund ("Fund"). All monies
9 collected by the Development Fee Collection Unit at DBI pursuant to Section 422.3 shall be
10 deposited in ~~a special~~ the Ffund maintained by the Controller. The receipts in the Fund shall be
11 appropriated in accordance with law through the normal budgetary process to be used solely to fund
12 public infrastructure and other allowable improvements ~~community improvements~~ subject to the
13 conditions of this Section.

14 (b) Use of Funds ~~Expenditures from the Fund shall be recommended by the Planning~~
15 ~~Commission and The Fund shall be administered by the Board of Supervisors.~~

16 (1) Community Improvements. All monies deposited in the Fund shall be used to
17 design, engineer, acquire, and develop and ~~improve streets~~ pedestrian and streetscape
18 improvements, bicycle infrastructure, transit, parks, plazas and open space, ~~and community~~
19 ~~facilities and services~~ as defined in the Balboa Park Community Improvements Program with
20 the Plan Area. Funds may be used for child-care facilities that are not publicly owned or
21 "publicly-accessible." The Fund shall be allocated in accordance with Table 422.5 ~~Monies from the~~
22 ~~Fund may be used by the Commission to commission economic analyses for the purpose of revising the~~
23 ~~fee pursuant to Section 422.3 above.~~

24 Table 422.5

BREAKDOWN OF USE OF BALBOA PARK COMMUNITY IMPROVEMENTS

FEE/FUND BY IMPROVEMENT TYPE

<u>Improvement Type</u>	<u>Dollars Received From Residential Development</u>	<u>Dollars Received From Commercial Development</u>
<u>Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Improvements</u>	<u>38%</u>	<u>38%</u>
<u>Transit</u>	<u>12%</u>	<u>12%</u>
<u>Recreation and Open Space</u>	<u>30%</u>	<u>30%</u>
<u>Childcare</u>	<u>15%</u>	<u>15%</u>
<u>Program Administration</u>	<u>5%</u>	<u>5%</u>

(2) **Program Administration.** *Funds may be used for administration and accounting of fund assets and for fees related to legal challenges related to such fees. Administration of this fund includes time and materials associated with reporting requirements and maintenance of the fund. No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any public entity, except for the purposes of administering this fund in an amount not to exceed 5% of the total annual revenue. Administration of this fund includes maintenance of the fund, time and materials associated with processing and approving fee payments and expenditures from the Fund (including necessary hearings), reporting or informational requests related to the Fund, and coordination between public agencies regarding determining and evaluation appropriate expenditures of the Fund. Monies from the Fund may be used by the Planning Commission to commission economic analyses for the purpose of revising the fee, or to complete an updated nexus study to demonstrate the relationship between development and the need for public facilities if this is*

1 deemed necessary. All interest earned on this account shall be credited to the Balboa Park
2 Community Improvements Fund.

3 ~~—(c) Funds shall be deposited into specific accounts according to the improvement type for~~
4 ~~which they were collected. Funds from a specific account may be assigned to a different improvement~~
5 ~~type, provided said account or fund is reimbursed over a five-year period of fee collection. Funds shall~~
6 ~~be allocated to accounts by improvement type as described below in Table 422.1 and as supported by~~
7 ~~the Balboa Park Community Improvements Program Nexus Study, San Francisco Planning~~
8 ~~Department, Case No. 2004.1059U, monitored according to the Balboa Park Monitoring Program~~
9 ~~described in Administrative Code Chapter 10.~~

10 *TABLE 422.1*

11 *BREAKDOWN OF BALBOA PARK COMMUNITY IMPROVEMENTS FEE/FUND BY*
12 *IMPROVEMENT TYPE*

13

<i>Improvement Type</i>	<i>Fee Allocation %</i>
<i>Streets</i>	<i>38%</i>
<i>Transit</i>	<i>13%</i>
<i>Parks, Plazas, Open Space</i>	<i>30%</i>
<i>Community facilities and services/Other</i>	<i>19%</i>

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21 ~~(d) With full participation by the Department and related implementing agencies, the~~
22 ~~Controller's Office shall file a report with the Board of Supervisors in even-numbered years, which~~
23 ~~report shall include the following elements: (1) a description of the type of fee in each account or fund;~~
24 ~~(2) beginning and ending balance of the accounts or funds including any bond funds held by an outside~~
25 ~~trustee; (3) amount of fees collected and interest earned; (4) identification of each public improvement~~

1 ~~on which fees or bond funds were expended and amount of each expenditure; (5) an identification of~~
2 ~~the approximate date by which the construction of public improvements will commence; (6) a~~
3 ~~description of any inter-fund transfer or loan and the public improvement on which the transferred~~
4 ~~funds will be expended; and (7) amount of refunds made and any allocations of unexpended fees that~~
5 ~~are not refunded.~~

6 (ed) Acquisition of New Open Space. A public hearing shall be held by the Recreation
7 and Parks Commission to elicit public comment on proposals for the acquisition of property
8 using monies in the Fund that will ultimately be maintained by the Department of Recreation
9 and Parks. Notice of public hearings shall be published in an official newspaper at least 20
10 days prior to the date of the hearing, which notice shall set forth the time, place, and purpose
11 of the hearing. The Parks Commission may vote to recommend to the Board of Supervisors
12 that it appropriate money from the Fund for acquisition and development of property acquired
13 for park use.

14 ~~(ef) The Planning Department shall work with other City agencies and commissions The~~
15 ~~Commission shall work with other City agencies and commissions, specifically the Department of~~
16 ~~Recreation and Parks, DPW and MTA, to develop a proposed expenditure plan and to develop~~
17 ~~agreements related to the administration of the improvements to existing public facilities and~~
18 ~~development of new public facilities within public rights-of-way or on any acquired public~~
19 ~~property. The proposed expenditure plan shall be approved by the Board of Supervisors using such~~
20 ~~monies as have been allocated for that purpose at a hearing of the Board of Supervisors.~~

21 (fg) The Director of Planning shall have the authority to prescribe rules and regulations
22 governing the Fund, which are consistent with this Section 422 et seq. The Director of Planning, as the
23 head of The Planning Commission, based on findings from the Inter-Agency Plan Implementation
24 Committee (IPIC), shall make recommendations to the Board regarding allocation of funds.
25

1 **SEC. 423.1. PURPOSE AND FINDINGS SUPPORTING EASTERN NEIGHBORHOODS**
2 **IMPACT FEES AND COMMUNITY IMPROVEMENTS FUND.**

3 (a) Purpose. ~~(1) New Housing and Other Land Uses. San Francisco is experiencing a~~
4 ~~severe shortage of housing available to people at all income levels. In addition, San Francisco has an~~
5 ~~ongoing affordable housing crisis. Many future San Francisco workers will be earning below 80% of~~
6 ~~the area's median income, and even those earning moderate or middle incomes, above the City's~~
7 ~~median, are likely to need assistance to continue to live in San Francisco. In 2007, the median income~~
8 ~~for a family of four in the city was about \$86,000. Yet median home prices suggest that nearly twice~~
9 ~~that income is needed to be able to a dwelling suitable for a family that size. Only an estimated 10% of~~
10 ~~households in the City can afford a median-priced home.~~

11 ~~—(2) The Association of Bay Area Governments' (ABAG) Regional Housing Needs~~
12 ~~Determination (RHND) forecasts that San Francisco must produce over 31,000 new units in the next~~
13 ~~five years, or over 6,000 new units of housing annually, to meet projected needs. At least 60%, or over~~
14 ~~18,000, of these new units should be available to households of very low, low, and moderate incomes.~~
15 ~~With land in short supply in the City, it is increasingly clear that the City's formerly industrial areas~~
16 ~~offer a critical source of land where this great need for housing, particularly affordable housing, can~~
17 ~~be partially addressed.~~

18 ~~—(3) The Board takes legislative notice of the purpose of the Eastern Neighborhoods Area~~
19 ~~Plan as articulated in the Eastern Neighborhoods Area Plan of the San Francisco General Plan. San~~
20 ~~Francisco's Housing Element establishes the Eastern Neighborhoods as a target area for~~
21 ~~development of new housing to meet San Francisco's identified housing targets. The release~~
22 ~~of some of the area's formerly industrial lands, no longer needed to meet current industrial or~~
23 ~~PDR needs, offer an opportunity to achieve higher affordability, and meet a greater range of~~
24 ~~need. The Mission, Showplace Square - Potrero Hill, East SoMa, Western SoMa and Central~~
25 ~~Waterfront Area Plans of the General Plan (Eastern Neighborhoods Plans) thereby call for~~

1 creation of new zoning intended specifically to meet San Francisco's housing needs, through
2 higher affordability requirements and through greater flexibility in the way those requirements
3 can be met, as described in Section 419. To support this new housing, other land uses,
4 including PDR businesses, retail, office and other workplace uses will also grow in the Eastern
5 Neighborhoods.

6 ~~(b) (1) Need for Public Improvements to Accompany New Uses. The amendments to the~~
7 ~~General Plan, Planning Code, and Zoning Maps that correspond to Section 423.1 et seq. will permit an~~
8 ~~increased amount of new housing and other uses, as noted above. The Planning Department anticipates~~
9 ~~an increase of at least 7,365 new housing units within the next 20 years, and over 13,000 new jobs, as~~
10 ~~estimated under Option B of the Eastern Neighborhoods Draft Environmental Impact Report. This~~
11 ~~new development will have an extraordinary impact on the Plan Area's already deficient~~
12 ~~neighborhood infrastructure. New development will generate needs for a significant amount of~~
13 ~~public open space and recreational facilities; transit and transportation, including streetscape~~
14 ~~and public realm improvements; community facilities and services, including library materials~~
15 ~~and child-care; and other amenities, as described in the Eastern Neighborhoods Community~~
16 ~~Improvements Public Benefits Program, on file with the Clerk of the Board in File No. 081155.~~

17 ~~—(2) The Eastern Neighborhoods Area Plans addresses existing deficiencies and new~~
18 ~~impacts, through a comprehensive package of public benefits described in the Eastern Neighborhoods~~
19 ~~Public Benefits Program. This Program will enable the City and County of San Francisco to provide~~
20 ~~necessary public infrastructure to new residents while increasing neighborhood livability and~~
21 ~~investment in the district.~~

22 ~~—(c) (1) Requirements for New Development To Contribute Towards Plan Objectives. A key~~
23 ~~policy goal of the Eastern Neighborhoods Plans is to provide a significant amount of new~~
24 ~~housing affordable to low, moderate and middle income families and individuals, along with~~
25 ~~"complete neighborhoods" that provide appropriate amenities for these new residents. The~~

1 Plans obligate all new development within the Eastern Neighborhoods to contribute towards
2 these goals, by providing a contribution towards affordable housing needs and by paying an
3 Eastern Neighborhoods Impact Fee.

4 (b) Findings. The Board of Supervisors has reviewed the San Francisco Citywide Nexus
5 Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and the San Francisco
6 Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the
7 Clerk of the Board in File No. _____ and, under Section 401A, adopts the findings and
8 conclusions of those studies and the general and specific findings in that Section, specifically including
9 the Recreation and Open Space Findings, Pedestrian and Streetscape Findings, Childcare Findings,
10 and Bicycle Infrastructure Findings and incorporates those by reference herein to support the
11 imposition of the fees under this Section.

12 The Board takes legislative notice of the findings supporting these fees in former Planning Code
13 Section 423.1 (formerly Section 327 et seq.) and the materials associated with Ordinance No. 298-08 in
14 Board File No. 081153. To the extent that the Board previously adopted fees in this Area Plan that are
15 not covered in the analysis of the four infrastructure areas analyzed in the Nexus Analysis, including
16 but not limited to fees related to transit, the Board continues to rely on its prior analysis and the
17 findings it made in support of those fees. — (2) However, due to the high cost of land within the City,
18 it has been determined that the imposition of requirements and fees based on the full impact of new
19 development would be overly burdensome to new development, and hinder the City's policy goal of
20 providing a significant amount of new housing. Therefore, fee rates have been set at a level that will
21 not hinder this policy goal overall. The Plans structure requirements and fees by tiers to ensure
22 feasibility.

23 ~~—(d) Programmed Improvements. General public improvements and amenities needed to meet~~
24 ~~the needs of both existing residents, as well as those needs generated by new development, have been~~
25 ~~identified through the community planning processes of the Area Plans. In the Mission, Showplace~~

1 ~~Square, Potrero Hill, Eastern SoMa and Central Waterfront Areas, these general public improvements~~
2 ~~and amenities were based on the standards-based analysis contained in the Eastern Neighborhoods~~
3 ~~Needs Assessment, San Francisco Planning Department, Case No. 2004.0160UU on file with the Clerk~~
4 ~~of the Board in File No. 081155, and on community input during the Plan adoption process. The~~
5 ~~Planning Department developed generalized cost estimates, based on similar project types~~
6 ~~implemented by the City in the relevant time period, to provide reasonable approximates for the~~
7 ~~eventual cost of providing necessary Public Benefits in the Plan Areas (information on these cost~~
8 ~~estimates is located in the Eastern Neighborhoods and Western SoMa Public Benefits Program~~
9 ~~Documents). However specific public improvements are still under development and will be further~~
10 ~~clarified through interdepartmental efforts with input from the Interagency Plan Implementation~~
11 ~~Committee, the Citizens Advisory Committee, and other stakeholders. Specific project identification,~~
12 ~~design work, engineering, and environmental review will still be required and may alter the nature of~~
13 ~~the improvements, as well as the sum total of the cost for these improvements.~~

14 ~~—(e) (1) Eastern Neighborhoods Impact Fee. Development impact fees are an effective~~
15 ~~approach to mitigate impacts associated with growth in population. The proposed Eastern~~
16 ~~Neighborhoods Impact Fee would be dedicated to infrastructure improvements in the Plan Area,~~
17 ~~directing benefits of the fund clearly to those who pay into the fund, by providing necessary~~
18 ~~infrastructure improvements and housing needed to serve new development. The net increases in~~
19 ~~individual property values in these areas due to the enhanced neighborhood amenities financed with~~
20 ~~the proceeds of the fee are expected to exceed the payments of fees by project sponsors.~~

21 ~~—(2) The fee rate has been calculated by the Planning Department based on accepted~~
22 ~~professional methods for the calculation of such fees, and described fully in the Eastern Neighborhoods~~
23 ~~and Western SoMa Nexus Studies, San Francisco Planning Department, Case No. 2004.0160UU and~~
24 ~~2008.0877 on file with the Clerk of the Board in File No. 081155 for the Mission, Showplace Square,~~
25 ~~Potrero Hill, East SoMa and Central Waterfront Areas, and File No. 130002 for the Western SoMa~~

1 *Plan Area. The Eastern Neighborhoods and Western SoMa Public Benefits Program Document*
2 *contains a full discussion of impact fee rationale.*

3 ~~— (3) The proposed fee would cover less than the full nexus as calculated by the Eastern~~
4 ~~Neighborhoods Nexus Studies. The proposed fees only cover impacts caused by new development and~~
5 ~~are not intended to remedy existing deficiencies. Those costs will be paid for by public, community, and~~
6 ~~other private sources as described in the Eastern Neighborhoods Public Benefits Program. Residential~~
7 ~~and non-residential impact fees are only one of many revenue sources necessary to create the~~
8 ~~"complete neighborhoods" that will provide appropriate amenities for residents of the Eastern~~
9 ~~Neighborhoods.~~

10
11 **SEC. 423.3. APPLICATION OF EASTERN NEIGHBORHOODS INFRASTRUCTURE**
12 **IMPACT FEE.**

13 * * * *

14 (e) Timing of Fee Payments. The Eastern Neighborhoods Infrastructure Impact Fee is
15 due and payable to the Development Fee Collection Unit at DBI ~~prior to~~ at the time of and in no
16 event later than issuance of the first construction document, with an option for the project
17 sponsor to defer payment to prior to issuance of the first certificate of occupancy upon
18 agreeing to pay a deferral surcharge that would be paid into the appropriate fund in
19 accordance with Section 107A.13.3 of the San Francisco Building Code.

20 * * * *

21
22 **SEC. 423.5. THE EASTERN NEIGHBORHOODS COMMUNITY IMPROVEMENTS**
23 **PUBLIC BENEFITS FUND.**

24 (a) Purpose. There is hereby established a separate fund set aside for a special
25 purpose entitled the Eastern Neighborhoods Community Improvements Public Benefits Fund

1 ("Fund"). All monies collected by the Development Fee Collection Unit at DBI pursuant to
2 Section 423.3(e) shall be deposited in ~~a special~~ the Ffund maintained by the Controller. The
3 receipts in the Fund shall be appropriated in accordance with the normal budgetary process to be
4 used solely to fund Community Improvements~~Public Benefits~~ subject to the conditions of this
5 Section. Monies collected by the Development Fee Collection Unit at DBI pursuant to 423.3 shall be
6 deposited as follows:

7 (1) For projects located in any zoning districts in the Eastern Neighborhoods
8 Program Area, excluding Designated Affordable Housing Zones, DBI shall deposit 100% of the funds
9 in the Eastern Neighborhoods Community Improvements Fund maintained by the Controller.

10 (2) For projects located in Designated Affordable Housing Zones, DBI shall deposit
11 25% of the funds in the Eastern Neighborhoods Community Improvement Fund and 75% in the
12 Citywide Affordable Housing Fund, but the funds shall be separately accounted for and expended as
13 provided in this Section.

14 (b) Use of Funds. ~~The fund shall be~~ Expenditures from the Fund shall be recommended by
15 the Planning Commission, and administered by the Board of Supervisors.

16 (1) All monies deposited in the Fund or credited against Fund obligations shall
17 be used to design, engineer, acquire, improve, and develop ~~and improve~~ public open space and
18 recreational facilities; transit, streetscape and public realm improvements; and ~~community~~
19 ~~facilities including childcare facilities. and library materials, as defined in the Eastern Neighborhoods~~
20 ~~and Western SoMa Nexus Studies; or housing preservation and development within the Eastern~~
21 ~~Neighborhoods Plan Area.~~ Funds may be used for child-care facilities that are not publicly
22 owned or "publicly-accessible." ~~Funds generated for 'library resources' should be used for materials~~
23 ~~in branches that directly service Eastern Neighborhoods residents. Monies from the Fund may be used~~
24 ~~by the Planning Commission to commission economic analyses for the purpose of revising the fee,~~

and/or to complete an updated nexus study to demonstrate the relationship between development and the need for public facilities if this is deemed necessary.

(A) Funds collected from all zoning districts in the Eastern Neighborhoods Program Area, excluding Designated Affordable Housing Zones shall be allocated to accounts by improvement type according to Table 423.5.

(B) Funds collected in Designated Affordable Housing Zones (Mission NCT and MUR, as defined in Section 401), shall be allocated to accounts by improvement type as described in Table 423.5A.

Table 423.5

BREAKDOWN OF USE OF EASTERN NEIGHBORHOODS COMMUNITY

IMPROVEMENTS FEE/FUND

BY IMPROVEMENT TYPE*

<u>Improvement Type</u>	<u>Dollars Received From Residential Development</u>	<u>Dollars Received From Non-Residential /Commercial Development</u>
<u>Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Facilities</u>	<u>31%</u>	<u>34%</u>
<u>Transit</u>	<u>10%</u>	<u>53%</u>
<u>Recreation and Open Space</u>	<u>47.5%</u>	<u>6%</u>
<u>Childcare</u>	<u>6.5%</u>	<u>2%</u>
<u>Program Administration</u>	<u>5%</u>	<u>5%</u>

***Does not apply to Designated Affordable Housing Zones, which are addressed in Table 423.5A**

Table 423.5A

BREAKDOWN OF USE OF EASTERN NEIGHBORHOODS PUBLIC BENEFIT

FEE/FUND

BY IMPROVEMENT TYPE FOR DESIGNATED AFFORDABLE HOUSING ZONES

<u>Improvement Type</u>	<u>Dollars Received From Residential Development</u>	<u>Dollars Received From Non-Residential /Commercial Development</u>
<i><u>Affordable Housing preservation and development</u></i>	<u>75%</u>	<u>n/a</u>
<i><u>Open space and recreation</u></i>	<u>10%</u>	<u>6%</u>
<i><u>Transit</u></i>	<u>6%</u>	<u>85%</u>
<i><u>Pedestrian and Streetscape Improvements</u></i>	<u>4%</u>	<u>4%</u>
<i><u>Program administration</u></i>	<u>5%</u>	<u>5%</u>

(2) Program Administration. No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any public entity, except for the purposes of administering this fund in an amount not to exceed 5% of the total annual revenue. Administration of this fund includes maintenance of the fund, time and materials associated with processing and approving fee payments and expenditures from the Fund (including necessary hearings), reporting or informational requests related to the Fund, and coordination between public agencies regarding determining and evaluation appropriate expenditures of the Fund. Monies from the Fund may be used by the Planning Commission to commission economic analyses for the purpose of revising the fee, or to complete a nexus study to demonstrate or update the relationship between development and the need for public facilities, or to commission landscape, architectural or other

1 planning, design and engineering services in support of the proposed public improvement. Funds may
2 be used for administration and accounting of fund assets, for additional studies as detailed in the
3 Eastern Neighborhoods Public Benefits Program Document, and to defend the Community
4 Stabilization fee against legal challenge, including the legal costs and attorney's fees incurred in the
5 defense. Administration of this fund includes time and materials associated with reporting
6 requirements, facilitating the Eastern Neighborhoods Citizens Advisory Committee meetings, and
7 maintenance of the fund. All interest earned on this account shall be credited to the Eastern
8 Neighborhoods Community Improvements Public Benefits Fund.

9 (c) ~~Funds shall be deposited into specific accounts according to the improvement type for~~
10 ~~which they were collected. Funds from a specific account may be used towards a different improvement~~
11 ~~type, provided said account or fund is reimbursed over a five year period of fee collection.~~ Funds shall
12 be allocated to accounts by improvement type as described below:

13 (1) Funds collected from all zoning districts in the Eastern Neighborhoods
14 Program Area, excluding Designated Affordable Housing Zones shall be allocated to accounts
15 by improvement type according to Table 423.5. Funds collected from MUR Zoning Districts
16 outside of the boundaries of either the East Soma or Western Soma Area Plans shall be allocated to
17 accounts by improvement type according to Table 423.5.

18 (2) Funds collected in designated affordable housing zones (Mission NCT and
19 MUR Use Districts within the boundaries of either the East SoMa or Western SoMa Area Plans (as
20 defined in 401)), shall be allocated to accounts by improvement type as described in Table
21 423.5A. ~~The revenue devoted to affordable housing preservation and development shall be deposited~~
22 ~~into a specific amount to be held by the Mayor's Office of Housing.~~ For funds allocated to affordable
23 housing, MOH shall expend the funds as follows:

1 (A) All funds collected from projects in the Mission NCT ~~that are~~
2 ~~earmarked for affordable housing preservation and development~~ shall be expended on housing
3 programs and projects within the Mission Area Plan boundaries.

4 (B) All funds collected from projects in the MUR Use Districts within the
5 boundaries of either the East SoMa or Western SoMa Area Plans that are earmarked for affordable
6 housing preservation and development shall be expended on housing programs and projects ~~shall~~
7 ~~be expended~~ within the boundaries of 5th to 10th Streets/Howard to Harrison Streets.

8 (C) Collectively, the first \$10 million in housing fees collected between
9 the two Designated Affordable Housing Zones shall be utilized for the acquisition and
10 rehabilitation of existing housing.

11 ~~— (3) All funds are supported by the Eastern Neighborhoods and Western SoMa Nexus~~
12 ~~Studies, San Francisco Planning Department, Case No. 2004.0160 and 2008-0877, and monitored~~
13 ~~according to the Eastern Neighborhoods Area Plans Monitoring Program required by the~~
14 ~~Administrative Code Section 10E and detailed by separate resolution.~~

15
16 TABLE 423.5

17 BREAKDOWN OF EASTERN NEIGHBORHOODS PUBLIC BENEFIT FEE/FUND
18 BY IMPROVEMENT TYPE*

19 Improvement Type Residential Non-residential

20 Open space and recreational facilities 50% 7%

21 Transit, streetscape and public realm improvements 42% 90%

22 Community facilities (child care and library materials) 8% 3%

1 *Does not apply to Designated Affordable Housing Zones, which are addressed in Table
2 423.5A.

3
4 TABLE 423.5A

5 BREAKDOWN OF EASTERN NEIGHBORHOODS PUBLIC BENEFIT FEE/FUND
6 BY IMPROVEMENT TYPE FOR DESIGNATED AFFORDABLE HOUSING ZONES

7 Improvement Type Residential Non-residential

8 Affordable housing preservation and development 75% n/a

9 Open space and recreational facilities 13% 7%

10 Transit, streetscape and public realm improvements 10% 90%

11 Community facilities (child care and library materials) 2% 3%

12 (d) The Planning Department shall work with other City agencies and commissions,
13 specifically the Department of Recreation and Parks, DPW and MTA to develop a proposed
14 expenditure plan, and to develop agreements related to the administration of the improvements to
15 existing public facilities and development of new public facilities within public rights-of-way or on any
16 acquired public property. The proposed expenditure plan shall be approved by the Board of
17 Supervisors

18 With full participation by the Planning Department and related implementing agencies, the
19 Controller's Office shall file a report with the Board of Supervisors in even-numbered years, which
20 report shall include the following elements: (1) a description of the type of fee in each account or fund;
21 (2) amount of fee collected; (3) beginning and ending balance of the accounts or funds including any
22 bond funds held by an outside trustee; (4) amount of fees collected and interest earned; (5)
23 identification of each public improvement on which fees or bond funds were expended and amount of
24 each expenditure; (6) an identification of the approximate date by which the construction of public
25 improvements will commence; (7) a description of any interfund transfer or loan and the public

1 ~~improvement on which the transferred funds will be expended; and (8) amount of refunds made and any~~
2 ~~allocations of unexpended fees that are not refunded.~~

3 (e) Acquisition of New Open Space. A public hearing shall be held by the Recreation
4 and Parks Commissions to elicit public comment on proposals for the acquisition of property
5 using monies in the Fund that will ultimately be maintained by the Department of Recreation
6 and Parks. Notice of public hearings shall be published in an official newspaper at least 20
7 days prior to the date of the hearing, which notice shall set forth the time, place, and purpose
8 of the hearing. The Parks Commissions may vote to recommend to the Board of Supervisors
9 that it appropriate money from the Fund for acquisition and development of property acquired
10 for park use.

11 ~~(f) The Planning Commission shall work with other City agencies and commissions,~~
12 ~~specifically the Department of Recreation and Parks, DPW, and the MTA, to develop agreements~~
13 ~~related to the administration of the improvements to existing public facilities and development of new~~
14 ~~public facilities within public rights-of-way or on any acquired public property, using such monies as~~
15 ~~have been allocated for that purpose at a hearing of the Board of Supervisors.~~

16 (fg) ~~The Planning Commission, based on findings from the Interagency Planning &~~
17 ~~Implementation Committee (IPIC), shall make recommendations to the Board regarding allocation of~~
18 ~~funds.~~

19 ~~(h)~~ Within 60 days of receiving the Eastern Neighborhoods Capital Expenditure
20 Evaluation Report as specified in Administrative Code Section 10E.2(c), the Office of the
21 Controller shall assess whether funds collected from the Eastern Neighborhoods Community
22 Improvement Impact Fee are being effectively utilized for capital projects serving the Eastern
23 Neighborhoods, and whether such projects are successfully advancing towards
24 implementation, as set forth in the abovementioned Section. Based on this assessment, the
25 following shall occur:

1 (1) ~~(A)~~ If the Controller determines that the funds have been effectively utilized as
2 set forth in Section 10E.2(c) of the Administrative Code, the Controller shall issue an
3 affirmative finding to the Board of Supervisors and the Planning Commission certifying that
4 the intent of this aforementioned Section is being met. No further Controller action is
5 necessary for purposes of this Subsection.

6 (2) ~~(B)~~ If the Controller fails to issue the certification described in Subsection
7 ~~(#f)~~(1A) above or if the Controller determines that the fees are not being effectively utilized as
8 set forth in Administrative Code Section 10E.2(c) and notifies the Board of Supervisors and
9 Planning Commission of this determination, then the following shall occur:

10 ~~(i)~~ (A) Any project specified below within the Eastern Neighborhoods Area Plan
11 that has not already received final and effective approvals from the Planning Department,
12 Zoning Administrator, and/or the Planning Commission, shall require a conditional use
13 authorization, in addition to any other approvals necessary under the Planning Code:

14 ~~(i)~~ ~~(aa)~~ Residential projects containing more than 10 new units that have
15 not received issuance of their first site or building permit; or

16 ~~(ii)~~ ~~(bb)~~ Non-residential projects containing a net new addition or new
17 construction of 10,000 square feet or more that have not received issuance of their first site or
18 building permit.

19 (3) ~~(C)~~ Elimination of interim conditional use requirement.

20 (4) ~~(i)~~ At any time after the Controller has determined that Eastern Neighborhood
21 impact fees are not being effectively utilized as set forth in Section 423.5~~(#)~~~~(B2)~~ above, or
22 fails to certify that they are being effectively utilized as set forth in Section 423.5~~(#)~~~~(A1)~~, the
23 Planning Department may provide the Controller with a newly updated or revised Eastern
24 Neighborhoods Capital Expenditure Evaluation Report.

1 (B~~ii~~) Within 60 days of receiving an updated or revised Report, the Office of the
2 Controller shall determine whether funds collected from the Eastern Neighborhoods
3 Community Improvement Public Benefit Fee are being effectively utilized for capital projects
4 serving the Eastern Neighborhoods consistent with the intent of the Section 10E.2(c) of the
5 Administrative Code.

6 (C~~iii~~) If, on the basis of a new, updated, or revised Eastern Neighborhoods
7 Capital Expenditure Evaluation Report, the Controller determines that the development impact
8 fees collected to date are being effectively utilized as set forth in Section 423.5(~~f~~)(1A) above,
9 any projects within the Eastern Neighborhoods Plan Area that required a conditional use
10 authorization on an interim basis as set forth in Section 423.5(~~f~~)(2B) shall no longer require
11 such conditional use authorization unless the underlying use requires conditional use
12 authorization independent~~ly of the requirements set forth in Section 423.5(f)(2)(i)(B).~~

13
14 **SEC. 424.1. FINDINGS SUPPORTING THE VAN NESS AND MARKET AFFORDABLE**
15 **HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.**

16 A-(a) **Affordable Housing.** The Van Ness and Market Residential Special use District
17 (“SUD”) enables the creation of a very dense residential neighborhood through significant
18 increases in development potential. This increase in development potential permits an
19 increase in market rate housing development. As described in Section 415.1, affordable
20 housing is a priority for San Francisco and additional demand for affordable housing is closely
21 correlated to the development of new market rate housing. At the direction of the Board of
22 Supervisors and as part of a larger analysis of development impact fees in the City, the City
23 contracted with Keyser Marston Associates to prepare a nexus analysis in support of the
24 Inclusionary Housing Program, or an analysis of the impact of development of market rate
25 housing on affordable housing supply and demand.

1 The City's Inclusionary Housing Program including the in-lieu fee provision which is
2 offered as an alternative to building units within market rate projects, is not subject to the
3 requirements of the Mitigation Fee Act, Government Code Sections 66000 et seq.
4 Notwithstanding this policy, as an additional support measure, the City prepared a nexus
5 study consistent with the Mitigation Fee Act to determine whether the Inclusionary Affordable
6 Housing Program was supported by such analysis. The final nexus study can be found in the
7 Board of Supervisors File and is incorporated by reference herein. The Board of Supervisors
8 has reviewed the study and the Department's analysis and report of the study and, on that
9 basis finds that the nexus study supports the current Inclusionary Affordable Housing Program
10 requirements as specified in this Section 424.1 et seq. combined with this Affordable Housing
11 Floor Area Ratio "(FAR") Bonus Program. Specifically, the Board finds that the nexus study:
12 identifies the purpose of the fee to mitigate impacts on the demand for affordable housing in
13 the City; identifies the use to which the fee is to be put as being to increase the City's
14 affordable housing supply; and establishes a reasonable relationship between the use of the
15 fee for affordable housing and the need for affordable housing and the construction of new
16 market rate housing. Moreover, the Board finds that the current inclusionary requirements
17 combined with the Affordable Housing FAR Bonus Program are less than the cost of
18 mitigation and do not include the costs of remedying any existing deficiencies. The Board also
19 finds that the study establishes that the current inclusionary requirements combined with the
20 Affordable Housing FAR Bonus Program do not duplicate other City requirements or fees.

21 Moreover, according to the study undertaken by Seifel Consulting at the direction of
22 the Planning Department, increased development potential in the Van Ness and Market
23 Downtown Residential Special Use district through the increased FAR allowance enables an
24 increased contribution to the Citywide Affordable Housing Fund without discouraging the
25

1 development of new market rate housing. A copy of said study is on file with the Clerk of the
2 Board of Supervisors.

3 B.(b) **Neighborhood Infrastructure.** The Van Ness & Market Residential SUD
4 enables the creation of a very dense residential neighborhood in an area built for back-office
5 and industrial uses. Projects that seek the FAR bonus above the maximum cap would
6 introduce a very high localized density in an area generally devoid of necessary public
7 infrastructure and amenities, as described in the Market &and Octavia Area Plan. While
8 envisioned in the Plan, such projects would create localized levels of demand for open space,
9 streetscape improvements, *community facilities* and public transit above and beyond the levels
10 both existing in the area today and funded by the Market &and Octavia Community
11 Improvements Fee. Such projects also entail construction of relatively taller or bulkier
12 structures in a concentrated area, increasing the need for offsetting open space for relief from
13 the physical presence of larger buildings. Additionally, the FAR bonus provisions herein are
14 intended to provide an economic incentive for project sponsors to provide public infrastructure
15 and amenities that improve the quality of life in the area. The bonus allowance is calibrated
16 based on the cost of responding to the intensified demand for public infrastructure generated
17 by increased densities available through the FAR density bonus program.

18 The Board of Supervisors has reviewed the San Francisco Citywide Nexus Analysis prepared by
19 AECOM dated March 2014 ("Nexus Analysis"), and the San Francisco Infrastructure Level of Service
20 Analysis prepared by AECOM dated March 2014, both on file with the Clerk of the Board in File No.
21 _____ and, under Section 401A, adopts the findings and conclusions of those studies and the
22 general and specific findings in that Section, specifically including the Recreation and Open Space
23 Findings, Pedestrian and Streetscape Findings, Childcare Findings, and Bicycle Infrastructure
24 Findings and incorporates those by reference herein to support the imposition of the fees under this
25 Section.

1 The Board references the findings supporting these fees in former Planning Code Section 424 et
2 seq. (formerly Section 249.33) and the materials associated with Ordinance No. 72-08 in Board File
3 No. 071157. To the extent that the Board previously adopted fees in this Area Plan that are not
4 covered in the analysis of the 4 infrastructure areas analyzed in the Nexus Analysis, including but not
5 limited to fees related to transit, the Board continues to rely on its prior analysis and the findings it
6 made in support of those fees.

7 €(c) **Public Improvements.** The public improvements acceptable in exchange for
8 granting the FAR bonus, and that would be necessary to serve the additional population
9 created by the increased density, are listed below. All public improvements shall be consistent
10 with the Market &and Octavia Area Plan.

11 (1) **Open Space Acquisition and Improvement:** Brady Park (as described in
12 the Market &and Octavia Area Plan), or other open space of comparable size and
13 performance. Open space shall be dedicated for public ownership or permanent easement for
14 unfettered public access and improved for public use, including landscaping, seating, lighting,
15 and other amenities.

16 (2) **Complete Streets:** ~~Streetscape and Pedestrian Improvements:~~ Pedestrian and
17 Streetscape improvements and Bicycle Infrastructure within the Special Use District as
18 described in the Market and& Octavia Area Plan, including Van Ness and South Van Ness
19 Avenues, Gough, Mission, McCoppin, Otis, Oak, Fell, 11th and 12th Streets, along with
20 adjacent alleys. Improvements include sidewalk widening, landscaping and trees, lighting,
21 seating and other street furniture (e.g., newsracks, kiosks, bicycle racks), signage, transit stop
22 and subway station enhancements (e.g., shelters, signage, boarding platforms), roadway and
23 sidewalk paving, and public art.

24 (3) **Affordable Housing.** The type of affordable housing needed in San
25 Francisco is documented in the City's Consolidated Plan and the Residence Element of the

1 General Plan. New affordable rental housing and ownership housing affordable to households
2 earning less than the median income is greatly needed in San Francisco.

3
4 **SEC. 424.3. APPLICATION OF VAN NESS AND MARKET AFFORDABLE**
5 **HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.**

6 (a) Application. Section 424.1 et seq. shall apply to any development project located
7 in the Van Ness and Market Downtown Residential Special Use District, as established in
8 Section 249.33 of this Code. The Fee is due and payable to the Development Fee Collection Unit at
9 DBI at the time of and in no event later than issuance of the first construction document, with an option
10 for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon
11 agreeing to pay a deferral surcharge that would be paid into the appropriate fund in accordance with
12 Section 107A.13.3 of the San Francisco Building Code.

13 * * * *

14
15 **SEC. 424.5. VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE**
16 **DISTRICT INFRASTRUCTURE FUND.**

17 (a) Purpose. There is hereby established a separate fund set aside for a special
18 purpose entitled the Van Ness and Market Neighborhood Infrastructure Fund ("Fund"). That
19 portion of gross floor area subject to the \$15.00 per gross square foot fee referenced in
20 Section 424.3(b)(ii) above shall be deposited into the Van Ness and Market Neighborhood
21 Infrastructure Fund deposited in the Fund, ~~which shall be~~ maintained by the Controller. The
22 receipts of the Fund are hereby appropriated in accordance with law through the normal
23 budgetary process to fund public infrastructure and other allowable improvements subject to the
24 conditions of this Section. to be used solely to fund public infrastructure subject to the following
25 conditions:

1 Table 424.5A. Breakdown of Use of Market and Octavia Community Improvement Fee by
 2 Infrastructure Type.

<u>Improvement Type</u>	<u>Dollars Received From Residential Development</u>	<u>Dollars Received From Non-Residential</u>
<u>Complete Streets: Pedestrian and Streetscape Improvements, Bicycle Facilities</u>	<u>44%</u>	<u>30%</u>
<u>Transit</u>	<u>22%</u>	<u>45%</u>
<u>Recreation and Open Space</u>	<u>21%</u>	<u>20%</u>
<u>Childcare</u>	<u>8%</u>	<u>Not applicable</u>
<u>Program Administration</u>	<u>5%</u>	<u>5%</u>

13
 14 (1) Infrastructure. All monies deposited in the Fund, plus accrued interest, shall
 15 be used solely to design, engineer, acquire, and develop neighborhood recreation and open
 16 spaces, pedestrian amenities and streetscape improvements, and bicycle infrastructure that result
 17 in new publicly-accessible facilities. First priority should be given to projects within the Van Ness
 18 and Market Downtown Residential Special Use District or the area bounded by 10th Street,
 19 Howard Street, South Van Ness Avenue, the northeastern line of the Central Freeway, Market
 20 Street, Franklin Street, Hayes Street, and Polk Street. Second priority should be given to projects
 21 within the Market and Octavia Plan. These improvements shall be consistent with the Market
 22 and Octavia Area Plan of the General Plan and any Plan that is approved by the Board of
 23 Supervisors in the future for the area covered by the Van Ness and Market Downtown
 24 Residential Special Use District, except that monies from the Fund may be used by the
 25 Planning Commission to commission studies to revise the fee above, or to commission

1 landscape, architectural or other planning, design and engineering services in support of the
2 proposed public improvements.

3 (2) No portion of the Fund may be used, by way of loan or otherwise, to pay
4 any administrative, general overhead, or similar expense of any public entity.

5 ~~(3) The Controller's Office shall file a report with the Board of Supervisors in even-~~
6 ~~numbered years. Monies in the Fund shall be appropriated by the Board of Supervisors and~~
7 ~~administered by the Director of Planning.~~

8 (4) At the close of a fiscal year in which the Market and Octavia Community
9 Improvements Program has generated funding for no less than \$211 million of expenditures in
10 the plan area, including revenue generated through this Section 424.1 et seq., Section 421
11 fee payments, in-kind improvements, public grants, San Francisco general funds, assessment
12 districts, and other sources which contribute to the overall programming, all future funds
13 generated through Section 424.1 et seq. shall be redirected ~~one hundred (100%) percent~~ to the
14 Citywide Affordable Housing Fund.

15 (45) Expenditure of funds shall be coordinated with appropriate City agencies as
16 detailed in Section 421.5(d) and (e).

17 (56) The Director shall have the authority to prescribe rules and regulations
18 governing the Fund, which are consistent with Section 424.1 et seq. The Director of Planning,
19 as the head of the Interagency Plan Implementation Committee (IPIC), shall make
20 recommendations to the Board regarding allocation of funds.

21
22 Section 3. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

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Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By:



4 SUSAN CLEVELAND-KNOWLES
5 Deputy City Attorney

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