File No. 120523 Committee Item No. 5
Board Item No. 17

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development **Date** September 10, 2012

Board of Supervisors Meeting **Date** 12/4/12

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☒	☒	Ordinance
☒	☒	Legislative Digest
☐	☐	Budget and Legislative Analyst Report
☐	☐	Legislative Analyst Report
☐	☐	Youth Commission Report
☒	☒	Introduction Form (for hearings)
☒	☒	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☐	☐	Public Correspondence

OTHER (Use back side if additional space is needed)

☒	☒	Environmental Review Determination, dtd 5/25/12
☒	☒	Planning Commission Resolution No. 18667
☒	☒	SF Transit Impact Development Fee Update Report
☒	☒	Small Business Commission Recommendation, dtd 7/11/12
☒	☒	Notice of Public Hearing: Fee Ad
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Completed by: Alisa Miller **Date** September 6, 2012
Completed by: Alisa Miller **Date** September 13, 2012

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code - Transit Impact Development Fee Increase and Updates]

Ordinance amending the San Francisco Planning Code, Article 4, by 1) revising and making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); 2) amending Sections 402, 408, 411 through 411.5, 411.7, and 411.8 and adding a new Section 411.9 to increase TIDF rates, revise exemptions and credits, and clarify TIDF implementation and collection; and 3) making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120523 and is incorporated herein by reference.

(b) On July 19, 2012, the Planning Commission, in Resolution No. 18667 approved this legislation, recommended it for adoption by the Board of Supervisors, and adopted findings that it will serve the public necessity, convenience and welfare. Pursuant to Planning Code Section 302, the Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 120523, and is incorporated by

reference herein.

(c) In Resolution No. 18667, the Planning Commission adopted findings that this legislation is consistent, on balance, with the City's General Plan and the eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.

Section 2. The San Francisco Planning Code is hereby amended by amending, adding and deleting the following definitions to Section 401 and codifying the amended and added definitions in correct alphabetical sequence among the definitions in Section 401:

SEC. 401. DEFINITIONS.

"Base service standard." The relationship between revenue service hours offered by the Municipal Railway and the number of automobile and transit trips estimated to be generated by certain non-residential uses, expressed as a ratio where the numerator equals the average daily revenue service hours offered by MUNI and the denominator equals the daily automobile and transit trips generated by non-residential land uses as estimated by the TIDF Study, *the TIDF Update Report,* or *as* updated under Section ~~*411.5*~~*410* of this Article.

Cultural/Institution/Education (CIE)." An economic activity category subject to the TIDF that includes, but is not limited to, schools, as defined in Sections 209.3(g), (h), and (i) and 217(f)-(i) of this Code; child care facilities *as defined in Sections 209.3 (e) and (f)*; museums and zoos; and community facilities, as defined in Sections 209.4 and 221(a)-(c) of this Code.

~~*"Development under the TIDF." Any new construction, or addition to or conversion of an existing structure under a building or site permit issued on or after September 4, 2004, that results in 3,000 gross square feet or more of a covered use. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. "Existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.*~~

"Director of Transportation." *The Director of Transportation of the MTA or his or her designee(s).*

"Gross floor area." The total area of each floor within the building's exterior walls, as defined in Section 102.9~~(b)(12)~~ of this Code, *except that for the purposes of determining the applicability of the TIDF, the exclusion from this definition set forth in Section 102.9(b)(12) shall not apply* .

~~*"MTA Director." The Director of MTA or his or her designee.*~~

"Medical and Health Services." An economic activity category under the TIDF that includes, but is not limited to, those non-residential uses defined in Sections 209.3(a) and 217(a) of this Code; ~~*animal services, as defined in Section 224(a) and (b) of this Code;*~~ and social and charitable services, as defined in Sections 209.3(d) and 217(d) of this Code.

"Museum." A permanent institution open to the public, which acquires, conserves, researches, communicates and exhibits the heritage of humanity or the environment.

~~*"New development." Under the TIDF, any new construction, or addition to or conversion of an existing structure under a building or site permit issued on or after September 4, 2004 that results in 3,000 gross square feet or more of a use covered by the TIDF. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. "Existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.*~~

"PDR use." ~~*Space within any structure or portion thereof intended or primarily suitable for or accessory to the operation, of*~~ *An economic activity category under the TIDF that includes, but is not limited to,* uses defined in San Francisco Planning Code Sections 220, 222, 223, 224, 225, 226, 227(a), 227(b), and 227(p), regardless of the zoning district that the use is located in.

"Retail/entertainment." An economic activity category under the TIDF that includes, but is not

limited to, a retail use; an entertainment use; *and* massage establishments, as defined in Section 218.1 of this Code~~; *laundering, and cleaning and pressing, as defined in Section 220 of this Code*~~.

"TIDF Study." The study commissioned by the San Francisco Planning Department and performed by Nelson/Nygaard Associates entitled "Transit Impact Development Fee Analysis - Final Report," dated May 2001, including all the Technical Memoranda supporting the Final Report and the Nelson/Nygaard update materials contained in Board of Supervisors File No. 040141.

"TIDF Update Report." The study commissioned by MTA and performed by Cambridge Systematics, Inc. and Urban Economics entitled "Transit Impact Development Fee Update Draft Final Report," dated February, 2011, and contained in Board of Supervisors File No. 120523.

"Total developable site area." That part of the site that can be feasibly developed as residential development, excluding land already substantially developed, parks, required open spaces, streets, alleys, walkways or other public infrastructure.

"Trip generation rate." The total number of automobile and Municipal Railway trips generated for each 1,000 square feet of development in a particular economic activity category as established in the TIDF Study, *the 2011 TIDF update report,* or pursuant to the five-year review process established in Section ~~*411.5*~~*5410* of this Article.

Section 3. The San Francisco Planning Code is hereby amended by amending Section 402(a) to read as follows:

SEC. 402. PROCEDURE FOR PAYMENT AND COLLECTION OF DEVELOPMENT FEES.

(a) Collection by the Development Fee Collection Unit. *Except as otherwise authorized in Section 411.9, all*~~All~~ development impact and in-lieu fees authorized by this Code shall be

collected by the Development Fee Collection Unit at DBI in accordance with Section 107A.13 of the San Francisco Building Code.

Section 4. The San Francisco Planning Code is hereby amended by amending Section 408 to read as follows:

SEC. 408. LIEN PROCEEDINGS.

(a) Except in the case of a project for which MTA is responsible for the determination and collection of the TIDF under Section 411.9(d) of this Article, if a first construction document or first certificate of occupancy, whichever applies, is ~~*DBI*~~ inadvertently or mistakenly ~~*issues*~~*issued* ~~*the first construction document or first certificate of occupancy, whichever applies,*~~ prior to the project sponsor paying all development fees due and owing, or prior to the sponsor satisfying any development impact requirement, DBI shall institute lien proceedings to recover the development fee or fees, plus interest and any Development Fee Deferral Surcharge, under Section 107A.13.15 of the San Francisco Building Code.

(b) (1) Where MTA is responsible for determination and collection of the TIDF under Section 411.9(d) of this Article, MTA has made a final determination of TIDF due under that Section, and the amount due from the project sponsor remains unpaid following 30 days from the date of mailing of the additional notice of payment due under that Section, MTA may initiate lien proceedings in accordance with Article XX of Chapter 10 of the San Francisco Administrative Code to make the entire unpaid balance of the fee that is due, including interest at the rate of one and one-half percent per month or fraction thereof on the amount of unpaid fee, a lien against all parcels used for the development project.

(2) MTA shall send all notices required by Article XX to the owner or owners of the property and to the project sponsor if different from the owner. MTA shall also prepare a preliminary report, and notify the owner and sponsor of a hearing by the Board of Supervisors to confirm such

report at least ten days before the date of the hearing. The report shall contain the owner and project sponsor's names, a description of the development project, a description of the parcels of real property to be encumbered as set forth in the Assessor's Map Books for the current year, a description of the alleged violation of this Section, and shall fix a time, date, and place for hearing. MTA shall transmit this report to the sponsor and each owner of record of the parcels of real property subject to the lien.

(3) Any notice required to be given to an owner or project sponsor shall be deemed sufficiently served for all purposes in this Section if (a) personally served upon the owner or project sponsor, or (b) if deposited, postage prepaid, in the U.S. Mail addressed to the owner or project sponsor at the official address of the owner or project sponsor maintained by the Tax Collector for the mailing of tax bills or, if no such address is available, to the sponsor at the address of the development project and to the applicant for the site or building permit at the address on the permit application.

(4) Except for the release of the lien recording fee authorized by Administrative Code Section 10.237, all sums collected by the Tax Collector under this Section shall be held in trust by the Treasurer and distributed as provided in Section 411.6 of this Code.

Section 5. The San Francisco Planning Code is hereby amended by amending Sections 411, 411.1, 411.2, 411.3, 411.4, 411.5, 411.7 and 411.8, and adding Section 411.9, to read as follows:

SEC. 411. TRANSIT IMPACT DEVELOPMENT FEE.

Sections 411.1 through ~~*411.8*~~*411.9*, hereafter referred to as Section 411.1 et seq., set forth the requirements and procedures for the TIDF. The effective date of these requirements shall be the date the requirements were originally effective or were subsequently modified, whichever applies.

SEC. 411.1. FINDINGS.

A. In 1981, the City enacted an ordinance imposing a Transit Impact

Development Fee on new office development in the Downtown area of San Francisco. The TIDF was based on studies showing that the development of new office uses places a burden on the Municipal Railway, especially in the downtown area of San Francisco during commute hours, known as "peak periods." The TIDF was based on two cost analyses: one by the Finance Bureau of the City's former Public Utilities Commission, performed in 1981, and one by the accounting firm of Touche-Ross, performed in March 1983 to defend a legal challenge to the TIDF.

B. In 2000, the Planning Department, with assistance from the Municipal Transportation Agency, commissioned a study of the TIDF. In 2001, the Department selected Nelson/Nygaard Associates, a nationally recognized transportation consulting firm, to perform the study. Later in 2001, Nelson/Nygaard issued its final report ("TIDF Study"). Before issuing the TIDF Study, Nelson/Nygaard prepared several Technical Memoranda, which provided detailed analyses of the methodology and assumptions used in the TIDF Study.

C. The TIDF Study concluded that new non-residential uses in San Francisco will generate demand for a substantial number of auto and transit trips by the year 2020. The TIDF Study confirmed that while new office construction will have a substantial impact on MUNI services, new development in a number of other land uses will also require MUNI to increase the number of revenue service hours. The TIDF Study recommended that the TIDF be extended to apply to most non-residential land uses. The TIDF Study found that certain types of new development generate very few daily trips and therefore may not appropriately be charged a new TIDF.

D. The TIDF Study further recommended that the City enact an ordinance to impose transit impact fees that would allow MUNI to maintain its base service standard as new development occurs throughout the City. The proposed ordinance would require sponsors of new development in the City to pay a fee that is reasonably related to the

financial burden imposed on MUNI by the new development. This financial burden is measured by the cost that will be incurred by MUNI to provide increased service to maintain the applicable base service standard over the life of such new development.

E. *Subsequently, the City selected Cambridge Systematics, Inc. to prepare a TIDF Update Report, including an updated nexus study for the TIDF. This Report was completed in 2011, and in accordance with the applicable provisions of this Code, used updated data to calculate base service standard fee rates for the Economic Activity Categories subject to the TIDF. The Report also analyzed trip generation rates for these Economic Activity Categories using updated data, and divided the Retail/Entertainment and Cultural/Institution/Education categories into subcategories in order to reflect the comparative diversity of trip generation rates among these land uses.*

F. Based on projected new development over the next 20 years, the TIDF will provide revenue to MUNI that is significantly below the costs that MUNI will incur to mitigate the transit impacts resulting from the new development.

~~*F*~~*G*. The TIDF is the most practical and equitable method of meeting a portion of the demand for additional Municipal Railway service and capital improvements for the City caused by new non-residential development.

~~*G*~~*H*. Based on the above findings and the nexus ~~*study*~~ *studies* performed, the City determines that the TIDF satisfies the requirements of the Mitigation Fee Act, California Government Code Section 66001, as follows:

(1) The purpose of the fee is to meet a portion of the demand for additional Municipal Railway service and capital improvements for the City caused by new nonresidential development.

(2) Funds from collection of the TIDF will be used to increase revenue service hours reasonably necessary to mitigate the impacts of new non-residential development on public transit and maintain the applicable base service standard.

(3) There is a reasonable relationship between the proposed uses of the TIDF and the impact on transit of the new developments on which the TIDF will be imposed.

(4) There is a reasonable relationship between the types of new development on which the TIDF will be imposed and the need to fund public transit for the uses specified in Section ~~*38.8*~~*411.6* of this ~~*ordinance*~~*Code*.

(5) There is a reasonable relationship between the amount of the TIDF to be imposed on new developments and the impact on public transit from the new developments.

SEC. 411.2. DEFINITIONS

(a) "Final TIDF Determination." The written notice sent by the MTA to a project sponsor in cases where the MTA is responsible for calculation of the TIDF under Section 411.9 of this Article informing the project sponsor of MTA's final calculation of the TIDF.

(b) "New development." Any new construction, or addition to or conversion of an existing structure under one or more building or site permits (1) issued on or after September 4, 2004 but before December 1, 2012 that cumulatively results in 3,000 gross square feet or more of a use covered by the TIDF or (2) issued on or after December 1, 2012 that cumulatively result in 800 gross square feet or more of a use covered by the TIDF. In the case of mixed use development that includes residential development, the term "new development" shall refer to only the non-residential portion of such development. For purposes of this definition, "existing structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF ordinance, as well as a structure for which no TIDF was paid.

(c) "Preliminary TIDF Notice." The written notice sent by the MTA to a project sponsor in cases where the MTA is responsible for imposition and collection of the TIDF under Section 411.9 of this Article informing the project sponsor of MTA's initial calculation of the TIDF due and requesting that the project sponsor provide MTA with information about the new development, including but not limited to, the gross square feet of use of the new development.

(d) For additional definitions, ~~See~~see Section 401 of this Article.

SEC. 411.3. APPLICATION OF TIDF.

(a) Application. Except as provided in Subsections (1) and (2) below, the TIDF shall be payable with respect to any new development in the City for which a building or site permit is issued on or after September 4, 2004. In reviewing whether a development project is subject to the TIDF, the project shall be considered in its entirety. A sponsor shall not seek multiple applications for building permits to evade paying the TIDF for a single development project.

(1) The TIDF shall not be payable on new development, or any portion thereof, for which a TIDF has been paid, in full or in part, under the prior TIDF Ordinance ~~*adopted in 1981 (Ordinance No. 224-81;*~~ former Chapter 38 of the Administrative Code *as amended through June 30, 2010*), except where (A) gross square feet of use is being added to the building; or (B) the TIDF rate for the new development is in an economic activity category with a higher fee rate than the *current rate for the economic activity category under which the TIDF was originally paid*~~*rate set for MIPS*~~, as set forth in Section 411.3(e).

(2) No TIDF shall be payable on the following types of new development.

(A) New development on property owned (including beneficially owned) by the City, except for that portion of the new development that may be developed by a private sponsor and not intended to be occupied by the City or other agency or entity exempted under Section 411.1 et seq., in which case the TIDF shall apply only to such non-exempted portion. New development on property owned by a private person or entity and leased to the City shall be subject to the fee, unless the City is the beneficial owner of such new development or unless such new development is otherwise exempted under this Section. *The exception established under subsection 411.3(a)(2)(A) for new development on property beneficially owned by the*

City shall only be applicable where a project sponsor for a new development has filed an application for environmental evaluation, a categorical exemption or a preliminary project assessment on or before December 31, 2013, or, for new development within the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, or the Transbay Redevelopment Project Area, the project sponsor submits proof that the sponsor has submitted to the successor agency to the former Redevelopment Agency of the City and County of San Francisco documentation comparable to that required for an application for environmental evaluation, a categorical exemption or a preliminary project assessment for the project on or before December 31, 2013.

(B) Any new development in Mission Bay North or South to the extent application of this Chapter would be inconsistent with the Mission Bay North Redevelopment Plan and Interagency Cooperation Agreement or the Mission Bay South Redevelopment Plan and Interagency Cooperation Agreement, as applicable.

(C) New development located on property owned by the United States or any of its agencies to be used exclusively for governmental purposes.

(D) New development located on property owned by the State of California or any of its agencies to be used exclusively for governmental purposes.

(E) New development for which a project sponsor filed an application for environmental evaluation or a categorical exemption prior to April 1, 2004, and for which the City issued a building or site permit on or before September 4, 2008; provided however, that such new development may be subject to the TIDF imposed by Ordinance No. 224-81, as amended through June 30, 2004, except that the ~~*Department and the Development Fee Collection Unit at DBI shall be responsible for the*~~ administration, imposition, review and collection of any such fee ~~*consistent*~~ *shall be conducted in accordance* with the administrative procedures set forth in Section 411.~~*19 et seq*~~. ~~*The Department*~~ *DBI and MTA* shall make the text of Ordinance No.

224-81, as amended through June 30, 2004, available on ~~the Department's~~ *their* website*s* and shall provide copies of that ordinance upon request.

(F) The following types of new developments, *except to the extent that any such new development is also captured under a more specific use under this Code that is not otherwise exempt*:

(i) Public facilities/utilities, as defined in Section 209.6 of this Code, *except that this exclusion shall not apply to new development on property owned by a private person or entity and leased to the City*;

(ii) Open recreation/horticulture, as defined in Section 209.5 of this Code, including private noncommercial recreation open use, as referred to in Section 221(g) of this Code;

(iii) Vehicle storage and access, as defined in Section 209.7 of this Code;

(iv) Automotive services, as defined in Section 223(l)-(v) of this Code, that are in a new development, *where the project sponsor has met the deadline established in subsection 411.3(a)(3)*;

(v) Wholesale storage of materials and equipment, as defined in Section 225 of this Code, *where the project sponsor has met the deadline established in Section 411.3(a)(3)*;

(vi) Other Uses, as defined in Section 227(~~ac~~)-(~~ol~~), *(n)-(o)*, and (q)-(r) of this Code;

(3) The exclusions from TIDF set forth in Section 411.3(a)(2)(F)(iv) and (v) (automotive services and wholesale storage of materials and equipment) shall only apply where a project sponsor for a new development has filed an application for environmental evaluation, a categorical exemption or a preliminary project assessment for the project on or before December 31,

2013, or, for new development within the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, or the Transbay Redevelopment Project Area, the project sponsor submits proof that the sponsor has submitted to the successor agency to the former Redevelopment Agency of the City and County of San Francisco documentation comparable to that required for an application for environmental evaluation, a categorical exemption or a preliminary project assessment for the project, on or before December 31, 2013.

(b) Timing of Payment. Except for those Integrated PDR projects subject to Section 328 of this Code, the TIDF shall be paid prior to issuance of the first construction document, with an option for the project sponsor to defer payment until prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13 of the San Francisco Building Code. Under no circumstances may any City official or agency, including the Port of San Francisco, issue a certificate of final completion and occupancy for any new development subject to the TIDF until the TIDF has been paid;

(c) Calculation of TIDF.

(1) The TIDF shall be calculated on the basis of the number of *gross* square feet of new development, multiplied by the square foot rate in effect at the time of building or site permit issuance for each of the applicable economic activity categories within the new development, as provided in Subsection 411.3(e) below. An accessory use shall be charged at the same rate as the underlying use to which it is accessory*, except that where any underlying use other than Residential is exempt from the TIDF under this Section, the fee shall nonetheless be charged for the accessory use unless such accessory use is otherwise exempt*. Whenever any new development or series of new developments cumulatively creates more than 3,000 gross square feet of covered use within a structure, *in the case of a building or site permit issued on or before November 30, 2012, or more than 800 gross square feet of covered use within a structure, in the*

case of a building or site permit issued on or after December 1, 2012, the TIDF shall be imposed on every square foot of such covered use (including any portion that was part of prior new development below the ~~3,000~~ *applicable* square foot threshold).

(2) When calculating the TIDF for a development project in which there is a change of use such that the rate charged for the new economic activity category is higher than the rate charged for the existing economic activity category, the TIDF per square foot rate for the change of use shall be the difference between the rate charged for the new use and the existing use.

(d) Credits. *When* ~~In~~ determining the number of gross square feet of use to which the TIDF applies, the Department shall provide *the following credits:*

(1) Prior Use Credits. There shall be a credit for prior uses eliminated on the site. The credit shall be calculated according to the following formula:

(~~1~~*A*) There shall be a credit for the number of gross square feet of use being eliminated by the new development, multiplied by an adjustment factor to reflect the difference in the fee rate of the use being added and the use being eliminated. The adjustment factor shall be determined by the Department as follows:

(*Ai*) The adjustment factor shall be a fraction, the numerator of which shall be the fee rate which the Department shall determine, in consultation with the MTA, if necessary, applies to the economic activity category in the most recent calculation of the TIDF Schedule approved by the ~~*MTA*~~ Board *of Supervisors* for the prior use being eliminated by the project.

(*Bii*) The denominator of the fraction shall be the fee rate for the use being added, as set forth in the most recent calculation of the TIDF Schedule approved by the ~~*MTA*~~ Board *of Supervisors*.

(~~2~~*B*) A credit for a prior use may be given only if the prior use was active on the site within five years before the date of the application for a building or site permit for the

proposed use.

(~~3~~C) As of September 4, 2004, no sponsor shall be entitled to a refund of the TIDF on a building for which the fee was paid under the former Chapter 38 of the San Francisco Administrative Code.

(~~4~~D) Notwithstanding the foregoing, the adjustment factor shall not exceed one.

(2) Policy Credits. Development projects that meet the criteria outlined in Subsection 411.3(d)(2)(B) may receive Policy Credits, subject to the following limitations:

(A) Limit on Available Policy Credits. When making a determination under this Article for the amount of TIDF owed, the Department shall allocate available Policy Credits, described in Section 411.3(d)(2)(B), as follows:

(i) No development project shall receive a Policy Credit under Section 411.3(d)(2)(B) if the total amount of credits received by development projects under that section would exceed 3% of the total anticipated TIDF revenue for the current Fiscal Year. To the extent Policy Credits allowed in any Fiscal Year are not allocated, the unallocated amount shall be carried over to the next Fiscal Year. The amount to be carried over to the next Fiscal Year shall be calculated based upon 3% of the sum of the actual TIDF revenues collected during the current Fiscal Year and the total amount of policy credits granted during the current Fiscal Year.

(ii) In no event shall the Policy Credits for a single development exceed 100% of the total TIDF that would otherwise be due.

(B) The Planning Department shall maintain and shall make available on the Planning Department's website, a list showing:

(i) All development projects receiving Policy Credits under Section 411.3(d)(2)(C) of this Article, and, if applicable, the date(s) of approval and the issuance of any building or site permit;

(ii) The total amount of Policy Credits received with respect to each listed development project;

(iii) Any Policy Credits allocated to a development project the site permit for which is modified, cancelled, revoked, or has expired;

(iv) Such other information as the Department may determine is appropriate.

(C) Available Policy Credits: The following development projects may receive Policy Credits, subject to the limitations set forth in Section 411.3(d)(2)(A):

(i) Small Businesses. Businesses that either occupy or expand any pre-existing commercial space, provided that: (a) the gross square footage of such commercial space is not greater than 5,000 square feet, and (b) the business is not formula retail, as defined in Sections 703.3 and 806.3 of this Code.

(ii) Reduced Parking Developments. In zoning districts that set a parking maximum, development projects that provide a lower number, or ratio, of off-street parking than permitted in Table 151.1 of this Code. The credit shall be determined by the Department as follows:

Max. Allowed in Planning Code Table 151.1	*50% of Max. or Less*	*60% of Max.*	*75% of Max.*	*90% of Max.*	*100% of Max. or more*
TIDF Credit	*90%*	*80%*	*50%*	*20%*	*0%*

(D) Process for Allocation of Policy Credits: The Policy Credits described in this Section shall be allocated to qualifying development projects by the Zoning Administrator at the moment their first entitlement is approved by the Planning Commission or the Planning Department. In addition, the following considerations shall apply:

(i) If a development project is modified for any reason after it is first approved, and such modification would result in a potential increase in the amount of Policy Credits allocated to it, the

development project shall maintain the credits allocated on the list described in Section 411.3(d)(2)(A)(v). Any additional credit may only be allocated at the time such modification is approved, subject to the limits of Section 411.3(d)(2)(A)(i)).

(ii) If a development project is modified for any reason after it is first approved, and such modification would result in a potential decrease in the amount of Policy Credits allocated to it, the remainder Policy Credits shall become available for other qualifying development projects during the approval period on account of such a modification.

(iii) The maximum amount of Policy Credits available for the approval period shall be increased by the amount of Policy Credits allocated to a development project for which an issued site or building permit has been finally cancelled or revoked, or has expired, with the irrevocable effect of preventing construction of the development.

(3) Limitation. In no event shall the combined Policy Credits and Prior Use Credits for a single development exceed 100% of the total TIDF that would otherwise be due.

(e) TIDF Schedule. The TIDF Schedule shall be as follows:

Economic Activity Category *or Subcategory*	TIDF Per Gross Square Foot of Development
Cultural/Institution/Education	~~$10.00~~
Day Care/Community Center	*$13.30*
Post-Secondary School	*$13.30*
Museum	*$11.05*
Other Institutional	*$13.30*
Management, Information and Professional Services	$~~10.00~~*12.64*
Medical and Health Services	$~~10.00~~*13.30*
Production/Distribution/Repair	$~~8.00~~*6.80*
Retail/Entertainment	$~~10.00~~*13.30*
Visitor Services	$~~8.00~~*12.64*

SEC. 411.4. IMPOSITION OF TIDF.

(a) Determination of Requirements.

(1) Except for projects where the building or site permit was issued prior to July 1, 2010, ~~T~~the Department shall determine the applicability of Section 411.1 et seq. to any development project requiring a first construction document and, if Section 411.1 is applicable, shall impose any TIDF owed as a condition of approval for issuance of the first construction document for the development project. The project sponsor shall supply any information necessary to assist the Department in this determination. The Zoning Administrator may seek the advice and consent of the MTA regarding any interpretations that may affect implementation of this section.

(2) For projects where the building or site permit was issued prior to July 1, 2010, the applicability of Section 411.1 et seq. shall be determined by MTA in accordance with Section 411.9.

(b) Department Notice to Development Fee Collection Unit at DBI ~~and MTA~~ of Requirements. After the Department has made its final determination regarding the application of the TIDF to a development project under Section 411.1 et seq., it shall immediately notify the Development Fee Collection Unit at DBI ~~and the Director of MTA~~ of any TIDF owed in addition to the other information required by Section 402(b) of this Article. ~~If the MTA Director disputes the Department's calculation, he or she shall promptly inform the Development Fee Collection Unit and the MTA Director's determination shall prevail.~~

(c) Process for Revisions of Determination of Requirements. In the event that the Department or the Commission takes action affecting any development project subject to Section 411.1 et seq. and such action is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action, the procedures of Section 402(c) of this Article shall be followed.

SEC. 411.5. ~~REVIEW OF TIDF SCHEDULE~~***PRINCIPLES IN CALCULATING FEE.***

~~(a) Five-Year Review.~~

~~(1) Every five years, or more often as the MTA Board may deem necessary, the Director of MTA shall prepare a report for the MTA Board and the Board of Supervisors with recommendations regarding whether the TIDF for each economic activity category should be increased, decreased, or remain the same. The Director of MTA shall coordinate this report with the five-year evaluation by the Director of Planning required by Section 410 of this Article.~~

~~(2) In making such recommendations, and to the extent that new information is available, the Director of MTA shall update the following information and estimates that were used in the TIDF Study to calculate the base service standard fee rates, and any other information that the~~

~~*Director deems appropriate.*~~

~~*(A) The base service standard;*~~

~~*(B) Capital and operating costs;*~~

~~*(C) Federal and state grant funds received by MUNI;*~~

~~*(D) Passenger fare revenue;*~~

~~*(E) Daily revenue service hours;*~~

~~*(F) Cost per revenue service hour;*~~

~~*(G) Trip generation rates by economic activity category;*~~

~~*(H) Cost per trip;*~~

~~*(I) Cost per gross square foot of development by economic activity category;*~~

~~*(J) Net present value factor;*~~

~~*(K) Useful life period(s) for new development by economic activity category;*~~

~~*(L) Estimated annual rate of return on the proceeds of the fee;*~~

~~*(M) The placement of particular land uses in economic activity categories.*~~

~~*Where applicable, the Director of MTA shall use the most recent MUNI information as submitted to the National Transit Database. The denominator of the revised base service standard shall be calculated using the most recent estimates of daily automobile and transit trips developed by the Planning Department or other City or State agency.*~~

~~*(3) In the report, the Director of MTA shall (A) identify the base service standard fee rates per gross square foot in each economic activity category; and (2) propose a fee for each economic activity category.*~~

~~*(4) After receiving this report and making it available for public distribution, the Board of Supervisors shall conduct a public hearing in which it shall consider the MTA Director's report, hear testimony from any interested members of the public, and receive such other evidence as it may deem necessary. At the conclusion of that hearing, the Board shall make findings regarding whether the*~~

~~*revenues projected to be recovered under the proposed Fee Schedule would be reasonably related to and would not exceed the costs incurred by MUNI to maintain the applicable base service standard, in light of demands caused by new development. The Board shall then make any necessary or appropriate revisions to the TIDF Schedule.*~~

~~*(5) The Board shall consider the MTA Director's report in light of the most recent five-year review of development fees under Section 410 of this Article). MUNI and the Planning Department shall make every effort to coordinate application of the TIDF with the City's other development fees to avoid unnecessarily encumbering sponsors of new development.*~~

~~*(b) Principles in Calculating Fee.*~~ The following principles have been and shall in the future be observed in calculating the TIDF:

(~~*1*~~*a*) Actual cost information provided to the National Transit Database shall be used in calculating the fee rates. Where estimates must be made, those estimates ~~*should*~~ *shall* be based on such information as the Director of ~~*MTA*~~ *Transportation* or his or her delegate considers reasonable for the purpose.

(~~*2*~~*b*) The rates shall be set at an actuarially sound level to ensure that the proceeds, including such earnings as may be derived from investment of the proceeds and amortization thereof, do not exceed the capital and operating costs incurred ~~*in order*~~ to maintain the applicable base service standard in light of the demands created by new development subject to the fee over the estimated useful life of such new development. For purposes of ~~*this*~~ Section 411.1 et seq. *of this Code, and any Comprehensive Five Year Evaluation of the TIDF under Section 410,* the estimated useful life of a new development is 45 years.

SEC. 411.7. RULES AND REGULATIONS.

The MTA is empowered to adopt such rules, regulations, and administrative procedures as it deems necessary to implement ~~*this*~~ Section 411.~~*19 et seq.*~~. In the event of a

conflict between any MTA rule, regulation or procedure and ~~this~~ Section*s* 411.1 *through 411.9*~~et seq.~~ *of this Code*, *the code section in conflict*~~this Section~~ shall prevail.

SEC. 411.8. CHARITABLE EXEMPTIONS

(a) The exemptions established by this Section shall be applicable only where a project sponsor for a new development has filed an application for environmental evaluation, a categorical exemption or a preliminary project assessment for the project on or before December 31, 2013, or, for new development within the Mission Bay North Project Area, the Mission Bay South Project Area, the Hunters Point Shipyard Project Area, the Bayview Hunters Point Redevelopment Area, or the Transbay Redevelopment Project Area, the project sponsor submits proof that the sponsor has submitted to the successor agency to the former Redevelopment Agency of the City and County of San Francisco documentation comparable to that required for an application for environmental evaluation, a categorical exemption or a preliminary project assessment for the project, on or before December 31, 2013.

(~~a~~*b*) When the property or a portion thereof will be exempt from real property taxation or possessory interest taxation under California Constitution, Article XIII, Section 4, as implemented by California Revenue and Taxation Code Section 214, then the sponsor shall not be required to pay the TIDF attributed to the new development in the exempt property or portion thereof, so long as the property or portion thereof continues to enjoy the aforementioned exemption from real property taxation. This exemption from the TIDF shall not apply to the extent that the non-profit organization is engaging in activities falling under the Retail/Entertainment or Visitor Services economic activity categories in the new development that would otherwise be subject to the TIDF.

(~~b~~*c*) The TIDF shall be calculated for exempt structures in the same manner and at the same time as for all other structures. Prior to issuance of a building or site permit for the

development project, *t*he sponsor may apply to the ~~*MTA*~~*Department* for an exemption under the standards set forth in subsection (a) above. ~~*In the event*~~ *If* the ~~*Agency*~~*Department* determines that the sponsor is entitled to an exemption under this Section, it shall cause to be recorded a notice advising that the TIDF has been calculated and imposed upon the structure and that the structure or a portion thereof has been exempted from payment of the fee but that if the property or portion thereof loses its exempt status during the 10-year period commencing with the date of the imposition of the TIDF, then the building owner shall be subject to the requirement to pay the fee.

(*ed*) If within 10 years from the date of the issuance of the Certificate of Final Completion and Occupancy, the exempt property or portion thereof loses its exempt status, then the sponsor shall, within 90 days thereafter, be obligated to pay the TIDF, reduced by an amount reflecting the duration of the charitable exempt status in relation to the useful life estimate used in determining the TIDF for that structure. The amount remaining to be paid shall be determined by recalculating the fee using a useful life equal to the useful life used in the initial calculation minus the number of years during which the exempt status has been in effect. After the TIDF has been paid, the ~~*Agency*~~*Department* shall record a release of the notice recorded under subsection (b) above.

(*de*) ~~*In the event*~~ *If* a property owner fails to pay a fee within the 90-day period, a notice for request of payment shall be served by the Development Fee Collection Unit at DBI under Section 107A.13 of the San Francisco Building Code. Thereafter, upon nonpayment, a lien proceeding shall be instituted under Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code.

SEC. 411.9. IMPOSITION AND COLLECTION OF TIDF DUE UNDER FORMER LAW.

(a) Ordinance No. 224-81 originally enacted the TIDF in 1981, codified in Chapter 38 of the Administrative Code. Chapter 38 was amended several times between 1981 and 2004. In 2004,

Ordinance No. 199-04 repealed and replaced the existing Chapter 38, which was subsequently amended, and then repealed in 2010 by Ordinance 108-10, which relocated the TIDF from the Administrative Code to this Code. In determining the applicable TIDF due for a project under this Section 411.9, MTA shall calculate the TIDF based upon the law in effect on the date of issuance of the first building or site permit for the project. Subsequent references to "former Administrative Code Chapter 38" in this section 411.9 shall be intended to refer to that Chapter as it read on the date of issuance of the first building or site permit for the project in question.

(b) MTA shall be responsible for determining the TIDF to the City for new development for which the City issued a building or site permit prior to July 1, 2010. In such cases, MTA shall determine the TIDF as follows:

(1) Where MTA has determined that such new development may be subject to the TIDF, MTA may cause the County Recorder to record a notice that the new development is potentially subject to the TIDF under this Article. Such notice shall identify the development project and state that MTA is evaluating whether the project is subject to the TIDF as well as the amount of any potential liability. The notice shall also state that if MTA subsequently determines that a TIDF is due on the project and the amount due is not paid, MTA may impose a lien on the property in accordance with this Article. Where MTA has caused this notice to be recorded and subsequently concludes that the project is not subject to the TIDF, MTA shall promptly record a notice identifying the project and stating that the agency has determined that the project is not subject to the TIDF.

(2) MTA shall send a Preliminary TIDF Notice to the project sponsor informing the project sponsor of MTA's proposed determination that TIDF is due for the project and requesting that the sponsor file with MTA, on such form as MTA may develop, a report indicating the number of gross square feet of use of the new development and any other information that MTA may require to determine the project sponsor's obligation to pay the TIDF.

(3) The Preliminary TIDF Notice shall

(A) identify the development project;

(B) state the legal authority for imposing the TIDF;

(C) specify the preliminary amount of the fee that MTA calculates the sponsor owes based on the information available to the agency, which amount MTA shall calculate on the basis of the number of gross square feet of new development, multiplied by the square foot rate in effect at the time of building or site permit issuance for each of the applicable economic categories within the new development under former Administrative Code Chapter 38, and taking into account any exceptions or credits provided therein; and

(D) list the name and contact information for the staff person at MTA responsible for calculating the TIDF.

(4) When calculating the TIDF for a development project in which there is a change of use such that the rate charged for the new economic activity category is higher than the rate charged for the existing economic activity category, the TIDF per square foot rate for the change of use shall be the difference between the rate charged for the new use and the existing use.

(5) The project sponsor shall submit the report of gross square feet of use to MTA not later than 15 calendar days from the date of mailing of the Preliminary TIDF Notice.

(6) After receiving the report of gross square feet of use, or if no response is received from the project sponsor within 15 calendar days from the date of mailing of the Preliminary TIDF Notice, MTA shall prepare a Final TIDF Determination for the project by determining the fee under Subsection 411.9(b)(3)(C), taking into account any additional information received from the project sponsor since the Preliminary TIDF Notice. The Final TIDF Determination shall also contain the information required by Subsection 411.9(b)(3)(A), (B) and (D) and inform the project sponsor of the sponsor's right to seek review of the determination in accordance with either Section 411.9(c) or (d).

(7) MTA shall cause the Final TIDF Determination to be addressed to the project sponsor and deposited in the U.S. Mail on the date of issuance of that Report. In addition, MTA shall transmit

the Final TIDF Determination to DBI in the case of projects subject to Section 411.9(c).

(c) Where the City issued a building or site permit prior to July 1, 2010 and the City has not issued the First Certificate of Occupancy for that development, DBI shall be responsible for collection of the fee due consistent with the otherwise applicable requirements set forth in this Article and the San Francisco Building Code. For purposes of this paragraph, the Final TIDF Determination shall be treated as a Project Development Fee Report.

(d) Notwithstanding any provisions to the contrary in the San Francisco Building Code, where the TIDF may be owed to the City for new development for which the City issued a building or site permit prior to July 1, 2010, and the City issued the First Certificate of Occupancy for the new development on or before the effective date of this Section 411.9, MTA shall be responsible for the collection of the fee due in accordance with the procedures set forth in this Subsection 411.9(d).

(1) Recording of Fee. Once it has prepared the Final TIDF Determination, MTA may cause the County Recorder to record a notice that the development is subject to the TIDF. The County Recorder shall serve or mail a copy of such notice to the project sponsor and the owners of the real property described in the notice. The notice shall include (i) a description of the real property subject to the fee; (ii) a statement that the development is subject to the fee; and (iii) a statement that the MTA has determined the amount of the fee to which the project is subject under this Section and related provisions of this Article.

(2) Dispute Resolution. If the project sponsor disputes the accuracy of the Final TIDF Determination, including the mathematical calculation of the number of gross square feet subject to the fee, the project sponsor may request a review of the Final TIDF Determination by the Director of Transportation. The project sponsor shall submit any request for review not later than 15 calendar days after the date of issuance of the Final TIDF Determination. The Director of Transportation shall attempt to resolve the dispute in consultation with the project sponsor, and may request additional information from either MTA staff or the project sponsor. The Director of Transportation shall issue

his or her decision in writing to the project sponsor not later than 30 calendar days from receipt of the review request, unless the project sponsor and the Director of Transportation mutually agree to extend this period. The Director of Transportation shall cause the decision to be placed in the U.S. Mail on the date of issuance.

(3) Appeal to MTA Board of Directors.

(A) The project sponsor may appeal the decision of the Director of Transportation on the Final TIDF Determination to the MTA Board of Directors by submitting a written notice of appeal, accompanied by payment of the full amount of the contested fee, to the Secretary of the MTA Board not later than 15 calendar days after the date of issuance of the Director of Transportation's decision. Any portion of the fee that is not upheld upon appeal to the MTA Board of Directors shall be refunded as set forth in subparagraph (D) below.

(B) In order to appeal to the MTA Board of Directors under this Section, a project sponsor appellant must first have attempted to resolve the dispute or question by following the procedure in Section 411.9(d)(2). The MTA Board Secretary may not accept an appeal for filing under this subsection unless the appellant submits written evidence of this prior attempt.

(C) In hearing any appeal of the Final TIDF Determination, the MTA Board's jurisdiction is strictly limited to determining whether the mathematical calculation of the TIDF is accurate and resolving any technical disputes over the use, occupancy, floor area, unit count and mix, or other objective criteria upon which the applicable provisions of law dictated the calculation.

(D) The MTA Board shall schedule the appeal for hearing within 90 calendar days of the date of submission of the appeal, and shall issue a decision within 60 days of hearing the appeal. Within five business days of the MTA Board's decision, the MTA Board Secretary shall cause the decision of the MTA Board to be placed in the U.S. Mail addressed to the appellant. The decision shall be accompanied by any refund of the TIDF paid due to appellant following the MTA Board's decision. Any amount refunded shall bear interest at the rate of 2/3 of 1 percent per month or fraction thereof, or

the average rate of interest computed over the preceding 6-month period obtained by the San Francisco Treasurer on deposits of public funds at the time the refund is made, whichever rate is lower, and shall be computed from the date of payment of the fee to the date of refund plus interest.

(4) Payment and Collection.

(A) Payment of TIDF. The TIDF shall be due and payable to the MTA not later than 30 days after the date of mailing of the Final TIDF Determination unless the project sponsor has timely requested review by the Director of Transportation under Section 411.9(d)(2) or initiated an appeal to the MTA Board of Directors under Section 411.9(d)(3), in which case any TIDF shall be due and payable to MTA on the earlier of 30 days after the date of the Director of Transportation's decision under Section 411.9(d)(2) or at the time of submission of the written notice of appeal to the MTA Board of Directors under Section 411.9(d)(3)(A) above.

(B) Payment of the TIDF imposed under this section is delinquent if (i) in the case of a fee not payable in installments, the fee is not paid by the dates set forth in the preceding paragraph; or (ii) in the case of a fee for Integrated PDR subject to Section 428A of this Code, any installment of the fee is not paid within 30 days of the date fixed for payment. In such case, MTA shall mail an additional request for payment to the project sponsor stating that:

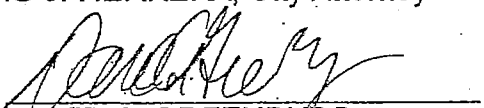
(i) If the amount due is not paid within 30 days of the date of mailing of the additional request and notice, interest at the rate of one and one-half percent per month or portion thereof shall be assessed upon the fee due and shall be computed from the date of delinquency until the date of payment; and

(ii) If the account is not current within 60 days of the date of mailing of the additional request and notice, MTA shall institute lien proceedings in accordance with Section 408(b).

Section 6. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 7. Scope of Amendment: 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 part of the Planning 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.

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

By: 
DAVID A. GREENBURG
Deputy City Attorney

FILE NO. 120523

LEGISLATIVE DIGEST

[Planning Code - Transit Impact Development Fee Increase and Updates]

Ordinance amending the San Francisco Planning Code, Article 4, by: 1) revising and making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); 2) amending Sections 402, 408, 411 through 411.5, 411.7, and 411.8 and adding a new Section 411.9 to increase TIDF rates, revise exemptions and credits, and clarify TIDF implementation and collection; and 3) making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Existing Law

The Transit Impact Development Fee ("TIDF") is a development fee charged on most new commercial development in the City in excess of 3,000 square feet. The fee is intended to recover a portion of the costs to the Municipal Transportation Agency incurs in meeting public transit service demands created by new commercial development that is subject to the fee, including maintaining and expanding service capacity through the addition of service hours; purchase, maintenance and repair of rolling stock; installation of new lines and additions to existing lines. The fee is imposed based upon one of six economic activity categories applicable to the new development. The current TIDF rates for each of these categories except Production/Distribution/Repair (PDR) and Visitor Services is $12.06 per square foot; for PDR and Visitor Services, the rate is $9.65 per square foot. These rates, while adjusted for inflation, are based on a nexus study completed in 2001 and updated in 2004.

In 2010, the TIDF was moved from the Administrative Code to the Planning Code as part of a consolidation of the procedures for administration and collection of the City's development impact fees. As a result, where a building or site permit was issued after July 1, 2010, responsibility for administration and collection of the fee was moved from the MTA to the Planning Department and the Department of Building Inspection (DBI).

Amendments to Current Law

The proposed ordinance makes adjustments to the TIDF rates based on a new nexus study on the TIDF completed in 2011, and effective December 1, 2012, lowers the threshold for triggering the TIDF from 3000 square feet of new development to 800 square feet. The legislation would, however, establish a new Policy Credit against the fee that would be available for small businesses and projects that provide less parking than the maximum authorized under the Planning Code. In addition, the legislation would revise or eliminate several existing exemptions from the fee, including eliminating the exemption for charitable organizations. Finally, the legislation would clarify the process for collecting the fee for projects where a building or site permit was issued prior to July 1, 2010, but the fee remains unpaid. These revisions are explained in further detail below.

The TIDF rates would be adjusted based upon the updated nexus study, and these rates would be consistent with the rates contained in the proposed Transportation Sustainability Fee (TSF) legislation. The rate for the Cultural/Institution/Education (CIE), Medical and Health Services, and Retail/Entertainment economic activity categories would be increased to $13.30 per square foot, except that the rate for museums, a subcategory of CIE, would be $11.05 per square foot, a reduction from the current amount. The rate for the Management, Information and Professional Services (MIPS) and Visitor Services economic activity categories would be increased to $12.64 per square foot, and the rate for the Production/Distribution/Repair (PDR) category would be reduced to $6.80 per square foot.

The legislation would add a new Policy Credit that would be available to offset the fee in the case of (1) new development by small businesses (except formula retail) re-using existing vacant space as long as the gross square footage of the space is 5000 square feet or less; or (2) projects that provide less parking than the maximum authorized under the Planning Code. Policy Credits would be capped at no more than 3% of the anticipated TIDF revenue for the fiscal year.

The legislation also clarifies the application of several exemptions to the fee, including clarifying that the exemption for public facilities and utilities does not apply in the case of new development on private property that is leased to the City, and eliminating exemption for several uses that are captured under the PDR economic activity category. In addition, the existing exemptions from the fee for automotive services, wholesale storage of materials and equipment and non-profit organizations would be eliminated as of January 1, 2014.

The proposed legislation also clarifies the process for imposition and collection of the TIDF in those cases where a building or site permit was issued prior to July 1, 2010, but the fee has not been imposed. In such cases, the SFMTA would continue to determine the amount of the fee due and notify the project sponsor of the fee amount due. In cases where a certificate of occupancy has not been issued, DBI would then assume responsibility for collecting the fee in accordance with the existing procedures in the Planning Code. In cases where a certificate of occupancy has been issued, the MTA would be responsible for collecting the fee in accordance with procedures set forth in the legislation. The procedures would largely parallel the existing procedures in the Planning Code, except that MTA would be responsible for reviewing objections to the determination of the fee, and any appeal would be to the MTA Board of Directors rather than to the Board of Appeals. In addition, a project sponsor seeking to appeal to the MTA Board would be required to pay the fee upon filing an appeal (with a refund, with interest, on any portion of the fee not upheld).

The proposed legislation also makes several technical corrections and minor revisions to better integrate administration of the TIDF into the development fee administration process set forth in Article 4 of the Planning Code.

Background Information

The proposed legislation is intended to update TIDF rates based on the 2011 TIDF Update Report and address several administration and implementation issues that have arisen since the 2010 legislation that moved the TIDF from Chapter 38 of the Administrative Code to Article 4 of the Planning Code as part of a larger effort to centralize the administration of development impact fees.

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 23, 2012

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On May 15, 2012, Mayor Lee introduced the following proposed legislation:

File No. 120523

Ordinance amending Planning Code Article 4 by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); and 2) amending Sections 408, 411.1 through 411.5, 411.7, and 411.8 to increase TIDF rates and clarify TIDF implementation and collection; and making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

CEQA Statutory Exemption
Section 15273. Rates, Tolls,
Fares, and Charges.

May 25, 2012

File 120523
4page

NOTT (Non-profits Opposed to the Transit Tax)
235 Montgomery Street, 12th Floor
San Francisco, CA 94104 - 3120

RECEIVED
BOARD OF SUPERVISORS
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November 27, 2012

The Honorable David Chiu, President
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room #244
San Francisco, CA 94102

RE: FILE #120523; Vote No on TIDF Update Legislation Unless Amended to Remove TSP Elements, Including Elimination of Non-profit Exemption

Dear President Chiu and Members of the Board:

A broad coalition of non-profit service providers (see list of organizations below) do not support the Transit Impact Development Fee (TIDF) update legislation as currently drafted. We are gravely concerned that elements of the forthcoming Transportation Sustainability Program (TSP), especially elimination of the non-profit fee exemption, have been selectively imbedded in the TIDF update legislation. Elimination of the non-profit exemption has not been considered through a thorough and transparent process and is not good public policy.

The undersigned requests the Supervisors vote NO on the TIDF update legislation (File #120523) when it comes before you on December 4, 2012, unless the legislation is amended to delete the elimination of the non-profit exemption. If the Board is intent on approving this ordinance as drafted, we request that a Committee of the Whole be calendared for your meeting of December 4th so the non-profit community can voice its concerns in a public hearing.

We make this request for several reasons:

1. The TSP is currently undergoing environmental review, therefore elements of the TSP do not belong in the pending TIDF legislation, which has been updated every 5 years with no material policy or programmatic changes. Many non-profit providers were caught by surprise to discover elimination of the non-profit fee exemption in the TIDF update legislation, and are only now beginning to understand the potential impacts to their organizations. This and other elements including reduction of square footage and policy credits, for example, are very complex and the timeline too short to evaluate the costs and implications for our diverse sector. Organizations that will be impacted need to participate in a transparent process that fully vets the proposed policy changes as part of next year's TSP public review.

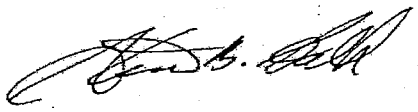
2. There are many questions regarding the proposed fee structure in the TIDF update legislation. Why is there no distinction made between nonprofit and for-profit institutions? How were the fees for each service sector derived from the nexus study? Why are some nonprofit institutions that have been excluded in the past, including educational and cultural institutions for example, included in the proposed new fee structure but those related to housing are not? Why are small for-profit businesses given access to fee credits but nonprofits are not? Given that many hospitals will have completed planned construction by 2014, where will the majority of the budgeted nonprofit transit fee revenues come from? The information provided to us generates more questions than answers and creates a lack of clarity as to what exactly the Board will be voting on at its meeting December 4th.

We as a coalition, representing many of the City's foremost nonprofit housing, education and health care institutions believe strongly that imposing transit fees on nonprofit providers will be detrimental to the financial sustainability of organizations already struggling to provide services to those most in need. Thirty years ago policymakers chose to impose

transit fees on new commercial development to offset the associated costs to the city's public transportation systems. Nonprofits were exempted from these fees in part because it was recognized that the financial burden would reduce services nonprofits provide. The elimination of the nonprofit fee exemption opens the door to other taxes and fees on nonprofits, and implies that the City values transit over healthcare, social services, education, religion and culture. Further, it creates a misguided fiscal policy where providers with City funding may resort to using funds from one city department to pay the fees assessed by another city department.

Unless the Board of Supervisors is willing to amend the legislation by separating the TSP elements from the TIDF update and voting only on the latter on December 4th, we the undersigned urge the Board to vote NO on the TIDF update legislation. Further, if the Board moves ahead with a vote on the legislation as currently drafted, we request that it convene a Committee of the Whole and hold a public hearing on this very significant and potentially destructive change to city policy.

Sincerely,



Steve Falk, President and CEO
San Francisco Chamber of Commerce

On behalf of:

Dignity Health
Hospital Council of Northern and Central California
San Francisco Human Services Network
Chinese Hospital
Chinatown Community Development Center
San Francisco Community Clinic Consortium
NICOS Chinese Health Coalition
Kaiser Permanente
Council of Community Housing Organizations
GLIDE Memorial United Methodist Church and Foundation
San Francisco Medical Society
University of San Francisco
St. Mary's Medical Center
Tenderloin Neighborhood Development Corporation
Fine Arts Museums of San Francisco
St. Francis Memorial Hospital
Women's Community Clinic
Chinese Community Healthcare Association
North East Medical Services
Planned Parenthood Shasta Pacific
Center for Youth Wellness
Richmond Area Multi-Services, Inc. (RAMS, Inc.)

cc: Distribute to each member of the Board of Supervisors
✓ Clerk of the Board of Supervisors
Mayor Ed Lee

Planning Recommendation BF 120523 TIDF

AnMarie Rodgers to: Christina Olague, Scott Wiener, Angela Calvillo, Mayor Edwin Lee 07/23/2012 05:01 PM

Cc: Judy B, Chris Durazo, ANDRES POWER, Cheryl.Adams, David Greenburg, Jason Elliott, Gillian gillett, bos_legislation, Alisa Miller, Alicia.JohnBaptiste

Dear Honorable Mayor Lee and Ms. Calvillo,

This email and the attached documents are in response to Board File No. 120523 which would make amendments relating to the Transit Impact Development Fee. On June 19, 2012 the Planning Commission recommended approval with modifications of the proposed ordinance.

Planning Recommendation BF 120523.pdf

Method of Delivery
In addition to this electronic transmittal, we will transmit the hardcopies via interoffice mail. This electronic transmittal is provided in compliance with San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents". Additional hard copies may be requested by contacting AnMarie Rodgers at 558-6395.

AnMarie Rodgers
Manager of Legislative Affairs

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July 23, 2012

Ms. Angela Calvillo, Clerk
Honorable Mayor Edwin Lee

Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2012.0814T:
Amendments relating to the Transit Impact Development Fee
Board File No. 120523
Planning Commission Recommendation: *Approval with Modifications*

Dear Honorable Mayor Lee and Ms. Calvillo,

On June 19, 2012, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed amendments to Article 4 of the Planning Code introduced by Mayor Edwin Lee and co-sponsored by Supervisors Christina Olague and Scott Wiener. At the hearing, the Planning Commission recommended approval with modifications.

The proposed text and fee changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15273. Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Alicia John-Baptiste at 558-6547.

Mayor Lee, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commissions.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Supervisor Christina Olague
Supervisor Scott Wiener
Jason Elliott, Mayor's Office
Cheryl Adams, City Attorney
David Greenburg, City Attorney

Attachments (one copy of the following):
Planning Commission Resolution
Planning Department Executive Summary

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Planning Commission Resolution No. 18667

HEARING DATE: JULY 19, 2012

Project Name:	Amendments relating to the Transit Impact Development Fee
Case Number:	2012.0814T [Board File No. 120523]
Initiated by:	Mayor Ed Lee / Introduced May 15, 2012
Staff Contact:	Alicia John-Baptiste, Chief of Staff alicia.johnbaptiste@sfgov.org, 415-558-6547
Reviewed by:	AnMarie Rodgers, Manager of Legislative Affairs
Recommendation:	Recommend Approval with Modifications

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE ARTICLE 4 BY: 1) MAKING TECHNICAL CORRECTIONS TO SPECIFIED DEFINITIONS IN SECTION 401 RELATING TO THE TRANSIT IMPACT DEVELOPMENT FEE (TIDF); AND 2) AMENDING SECTIONS 408, 411.1 THROUGH 411.5, 411.7 AND 411.8 TO INCREASE TIDF RATES AND CLARIFY TIDF IMPLEMENTATION AND COLLECTION.

PREAMBLE

Whereas, on May 15, 2012, Mayor Ed Lee and co-sponsors Supervisor Scott Wiener and Supervisor Christina Olague introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 120523 which would amend Article 4 of the Planning Code to make technical corrections to definitions relating to the TIDF, increase TIDF rates, and clarify TIDF implementation and collection; and

Whereas, on July 19, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed text and fee changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15273; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties; and

Whereas, all the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance with modifications* and adopts the attached Draft Resolution to that effect. The six recommended modifications include:

1. Introduce a Policy Credits Program With No Cap on the Amount of Credits a Small Business Project Eligible for the Policy Credits Program May Receive;
2. Extend the Grandfathering Period for Non-Profit and Institutional Uses;
3. Introduce a Grandfathering Period to January 1, 2014 for Uses Not Currently Subject to the TIDF
4. Retain the Five-Year Timeframe for Inactive Uses;
5. Provide SFMTA with Collection and Appeal Procedures and Authority; and
6. Clarify the Accessory Use Provision to Exclude Residential.

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 Transit Impact Development Fee (TIDF) serves as the City's primary mechanism to offset the impacts to the transit system of new development;

2. The TIDF base rates have not been updated since 2004 and the annual fee-indexing has not kept pace with the increase in cost to provide transit service since 2004;

3. The SFMTA completed a nexus study update to the TIDF in 2011, as required by law;

4. The transition from TIDF's inclusion in Chapter 38 of the Administrative Code to Article 4 of the Planning Code has resulted in administrative inconsistencies and difficulty in collecting the TIDF in some cases;

5. The Commission believes that the TIDF should be aligned in its application and policies to the greatest extent possible with the proposed Transportation Sustainability Fee;

6. The Commission recommends implementing a Policy Credits program under the TIDF which would provide up to three percent of annual projected TIDF revenue on a first-come, first-served basis, in the form of credits to qualifying uses and that those qualifying uses would be comprised of projects which build less than the allowable maximum parking in Zoning Districts which have such maximums and projects which are non-formula retail small businesses occupying up to 5,000 square feet of existing vacant space;

7. Consistent with the expressed policy direction of the Small Business Commission, the Commission recommends providing 100 percent fee waivers for small businesses eligible under the Policy Credits Program;

8. The Commission recommends extending the grandfathering period for projects subject to the TIDF such that projects under 3,000 gross square feet with a building or site permit issued prior to December 1, 2012 will not be subject to the TIDF;

9. The Commission supports the development of non-profit and institutional uses and recognizes that these uses require lead time to modify their capital planning to accommodate a new fee and therefore the Commission recommends extending the grandfathering period provided to these uses to January 1, 2014;

10. The Commission recognizes that uses defined as Automotive Services and Wholesale Storage of Materials and Equipment are not currently subject to the TIDF and that such uses require lead time to accommodate a new fee, and therefore the Commission recommends establishing a grandfathering period for these uses, to January 1, 2014;

11. Consistent with the expressed policy direction of the Small Business Commission, the Commission recommends retaining the five-year inactivity clause as described in the existing TIDF ordinance;

12. The Commission recommends providing the SFMTA with the authority to collect TIDF for projects which have already been issued a Temporary Certificate of Occupancy and/or a Certificate of Final Completion and the Commission further recommends providing project sponsors with an appeal procedure in those cases where the SFMTA is the agency responsible for collecting the TIDF;

13. The proposed TIDF ordinance does not extend to residential uses and the Commission recommends clarifying the provision which levies the TIDF on accessory uses to explicitly exclude uses which are accessory to residential, provided, however that the TIDF does apply on the portion of a mixed use development which is not residential;

14. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

TRANSPORTATION ELEMENT

THE TRANSPORTATION ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE IMPORTANT COMPONENTS OF THE LOCAL AND REGIONAL TRANSPORTATION SYSTEM.

OBJECTIVE 1

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

POLICY 1.3

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The proposed ordinance directly addresses the need for enhanced transit service to accommodate commuters. By requiring that new non-residential development pay an impact fee to offset the impacts on transit of that new development, and by directing revenue from that fee to Muni operations and capital improvements, the City is able to provide the transit service necessary to support commuters en route to their place of employment.

OBJECTIVE 11
ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

POLICY 11.2
Continue to favor investment in transit infrastructure and services over investment in highway development and other facilities that accommodate the automobile.

POLICY 11.3
Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

The proposed ordinance explicitly funds investments in the City's transit system. It also requires that developers address transit concerns by paying the Transit Impact Development Fee.

OBJECTIVE 21
DEVELOP TRANSIT AS THE PRIMARY MODE OF TRAVEL TO AND FROM DOWNTOWN AND ALL MAJOR ACTIVITY CENTERS WITHIN THE REGION.

POLICY 21.1
Provide transit service from residential areas to major employment centers outside the downtown area.

POLICY 21.2
Where a high level of transit ridership or potential ridership exists along a corridor, existing transit service or technology should be upgraded to attract and accommodate riders.

POLICY 21.11
Ensure the maintenance and efficient operation of the fleet of transit vehicles.

The proposed ordinance supports these policies by establishing a means to generate revenue to provide transit service to employment centers, accommodate riders on high-volume transit corridors, fund transit service upgrades and technology, and invest in maintaining and efficiently operating the transit fleet of vehicles.

15. The proposed ordinance is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of neighborhood-serving retail uses nor on opportunities for resident employment in and ownership of such businesses.

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will have no adverse effect on existing housing and neighborhood character.

C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will support MUNI service by providing needed funding to supply and operate the transit service required to accommodate new development. The proposed Ordinance will not overburden the streets or neighborhood parking and may reduce the burden on these through funding transit service.

E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendments.

H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on July 19, 2012.

Linda Avery
Commission Secretary

AYES: Wu, Antonini, Borden, Moore, Sugaya

NAYS:

ABSENT: Fong

ADOPTED: July 19, 2012

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Change and Fee Amendment
HEARING DATE: JULY 19, 2012

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Project Name:	Amendments relating to the Transit Impact Development Fee
Case Number:	2012.0814T [Board File No. 120523]
Initiated by:	Mayor Ed Lee / Introduced May 15, 2012
Staff Contact:	Alicia John-Baptiste, Chief of Staff
	alicia.johnbaptiste@sfgov.org, 415-558-6547
Reviewed by:	AnMarie Rodgers, Manager of Legislative Affairs
Recommendation:	Recommend Approval with Modifications

PLANNING CODE AMENDMENT

The proposed Ordinance would amend Article 4 of the Planning Code by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); and 2) amending Sections 408, 411.1 through 411.5, 411.7 and 411.8 to increase TIDF rates and clarify TIDF implementation and collection.

The Way It Is Now:

The Transit Impact Development Fee (TIDF) is an impact fee levied on most non-residential new development citywide to offset new development's impacts on the City's transit system. Revenue generated by the fee is directed to the San Francisco Municipal Transportation Agency (SFMTA) and is used to fund Muni capital and system maintenance. Residential projects, projects under 3,000 gross square feet, projects considered "charitably exempt", and some specific land uses, such as automotive services, are currently exempted from the fee. Development projects may be given a credit against the fee for a prior use so long as the prior use was active on the site within five years of the new development's application. When a new development project constitutes a change of use, the new development is charged the difference between the TIDF rate for Office and the TIDF rate for the proposed use, when such a difference exists.

The TIDF was first enacted by local ordinance in 1981 as an outgrowth of the work on the Downtown Plan.[1] The TIDF was created to acknowledge that new office development in the Downtown would result in increased demand for transit to accommodate that area's new workers. The original TIDF preceded the creation at the State level of the Mitigation Fee Act, which subsequently established a framework by which local jurisdictions could identify the impacts of new development on City services and adopt "impact fees" to address those impacts.[2] While cities had used "exactions" to fund

[1] The San Francisco Transit Impact Development Fee was first established by Ordinance No. 224-81.

[2] The California Mitigation Fee Act was enacted in 1987. See "A Short Overview of Development Impact Fees". Peter N. Brown, City Attorney, City of Carpinteria, and Graham Lyons, Deputy City Attorney, City of Carpinteria, February 27, 2003.

infrastructure projects since the 1920s, the San Francisco Transit Impact Development Fee Ordinance remained the only developer fee specifically dedicated to public transit for more than 20 years after its adoption.[3] Chapter 38 of the Administrative Code held the first TIDF regulations. Beginning in 1981, the Public Utilities Commission, a predecessor to the SFMTA, was given responsibility for the assessment, imposition, and collection of the TIDF.

In 2001, the SFMTA commissioned a nexus study on the TIDF which determined that new non-residential uses outside the Downtown core also have an impact on the City's transit system. In 2004, the Board of Supervisors enacted a new TIDF ordinance which expanded the application of the fee citywide to most new non-residential uses and which increased the rates at which the TIDF is charged.[4]

In 2010, the Board of Supervisors enacted changes to the Planning and Building Codes to consolidate assessment and imposition of most impact fees with the Planning Department, and collection of those fees with the Department of Building Inspection. These changes were encompassed in the creation of Article 4 of the Planning Code. Article 4 also established rules and procedures for updating and reporting on impact fees, and moved the TIDF from the Administrative Code to the Planning Code.

The Way It Would Be:

The proposed ordinance makes changes to how the TIDF is applied and expands the types of new development subject to the TIDF, while still exempting residential development. The proposed ordinance also modifies definitions contained in the TIDF provisions, tying them to those already established in the Planning Code. It clarifies the roles of the SFMTA, the Planning Department, and the Department of Building Inspection as pertains to assessing, imposing, and collecting the TIDF, and establishes that TIDF updates will be conducted according to the provisions established in Article 4 of the Planning Code. Finally, the proposed ordinance increases the TIDF rates charged to most land uses, decreases the rate charged to Production, Distribution, and Repair (PDR) and to Museums, and modifies the way that change-of-use TIDF rates are determined. Base TIDF rates were last changed in 2004.

Application Changes

The proposed TIDF ordinance lowers the exemption threshold under which new development is not subject to the fee from 3,000 gross square feet to 800 gross square feet. This is the same threshold applied under the Eastern Neighborhoods and Market/Octavia Plan Area impact fees. The proposed ordinance provides a grandfathering provision, such that projects issued building or site permits prior to October 1, 2012 would be subject to the 3,000 gross square footage exemption, rather than the 800 gross square footage exemption. The proposed ordinance clarifies that the TIDF is calculated on a gross square footage basis, which has been the practice but which is not explicitly called out in the existing ordinance.

The proposed ordinance also extends the TIDF to apply to non-profit and institutional uses by eliminating the existing exemption for new development meeting the "charitably exempt" criteria

[3] San Francisco Planning Department, prepared by Nelson\Nygaard Consulting (2001), Transit Impact Development Fee Analysis, Final Report for San Francisco, 1-1.

[4] Ordinance Number 199-04, approved August 5, 2004.

(Section 411.8). As with the change in exemption threshold noted above, the proposed ordinance provides a grandfathering provision for these types of projects, such that those new development projects currently considered charitably exempt which file an application for environmental evaluation, categorical exemption, or preliminary project assessment by October 1, 2012 are not subject to the fee. The grandfathering provision would allow grandfathering of non-profit and institutional uses in Redevelopment Areas if these projects file relevant applications by October 1, 2012.

The proposed ordinance makes a number of other changes which have the effect of expanding the types of projects subject to the TIDF. It removes the existing exemption for projects categorized as "Automotive Services" and as "Wholesale Storage of Materials and Equipment", by bringing those two categories of projects under the broader PDR definition. It eliminates the exemption for projects on property "beneficially owned" by the City and County of San Francisco. It also clarifies that accessory uses are subject to the fee if they fall within a land use category subject to the fee, even if the use to which they are accessory is exempted from the fee.

The proposed ordinance makes one other change which could affect the number or type of projects subject to the TIDF. Currently, new development receives a credit against the TIDF for a prior use on the applicable site if the prior use was active on the site within the five years before the new development application is submitted. Under the proposed ordinance, this provision is eliminated and instead new development may receive a credit for a prior use only if the prior use was not "abandoned" as defined in the Planning Code (Sections 178(d), 183, and 186.1(d)). The Planning Code's definition of abandonment pertains only to conditional and nonconforming uses and establishes a three-year timeframe of inactivity to constitute abandonment. The effect of this change, therefore, is that it 1) allows new development a prior use credit with no time limit if the prior use was principally permitted; and 2) shortens the five-year timeframe of inactivity to three years if the prior use was either a conditional or nonconforming use.

Definition Changes

The proposed ordinance modifies land use definitions under the TIDF so that they are consistent with definitions already existing in the Planning Code. As noted above, the TIDF was originally established in the Administrative Code and terms and definitions created or updated in the Planning Code have not always been reflected in the Administrative Code. The proposed ordinance makes the following changes to definitions:

- Provides a Planning Code citation to the definition of "Child care facilities" (Section 209.3(e) and (f))
- Excludes "animal services as defined in Section 224(a) and (b)" from the definition of "Medical and Health Services"
- Establishes a definition for "Museum"[5]
- Deletes "laundering and cleaning and pressing" from the definition of "Retail/Entertainment"

[5] "Museum." A permanent institution open to the public, which acquires, conserves, researches, communicates and exhibits the heritage of humanity or the environment.

The proposed ordinance creates a definition for "Museum" because the nexus study underlying the proposed TIDF rate update identified a lower trip generation rate for Museums compared to other Cultural/Educational/Institutional uses, the land use category which currently encompasses Museums.

Role-Clarifying Changes

The proposed ordinance establishes two different procedures for assessing and imposing the TIDF, depending on the date when a building or site permit for a new development project was first issued. For projects where a building or site permit was issued prior to July 1, 2010, under the proposed ordinance, the SFMTA assesses and imposes the TIDF. For projects issued a building or site permit after July 1, 2010, the Planning Department assesses and imposes the TIDF. In both cases, responsibility for collecting the TIDF rests with the Department of Building Inspection. The proposed ordinance establishes these two different procedures because, prior to July 1, 2010, the TIDF resided in the Administrative Code and the SFMTA was responsible for assessing, imposing, and collecting the fee. On July 1, 2010, the Article 4 provisions covering impact fees became effective and gave responsibility to the Planning Department to assess and impose the TIDF, and responsibility to the Department of Building Inspection to collect the TIDF.

In addition, the proposed ordinance establishes that updates to and reporting on the TIDF will be done in accordance with the rules and procedures delineated in Article 4, Section 410, which covers these for impact fees generally.

Fee Rate Changes

The proposed ordinance amends the TIDF by increasing some rates, decreasing the rate for PDR and Museum projects, and modifying the calculation for determining the rate paid for projects which are a change-of-use. The current and proposed TIDF rates are as follows:

Land Use Category	Current Fee	Proposed Fee
Office (MIPS)	$12.06	$12.64
Cultural/Institution/Education	$12.06	
Day Care/Community Center	*$12.06*	$13.30
Post-Secondary School	*$12.06*	$13.30
Museum	*$12.06*	$11.05
Other Institutional	*$12.06*	$13.30
Medical and Health Services	$12.06	$13.30
Production/Distribution/Repair	$ 9.65	$ 6.80
Retail/Entertainment	$12.06	$13.30
Visitor Services	$ 9.65	$12.64

For projects which are a change-of-use, the TIDF is currently charged by calculating the differential between the TIDF rate for the proposed use and the TIDF rate for Office. Under the proposed ordinance, the TIDF owed for change-of-use projects would be based on the difference between the TIDF rate for the proposed use and the TIDF rate for the existing use, Office or otherwise. In both cases, the TIDF is only charged if the TIDF rate for the proposed use is higher than the TIDF rate for the existing use.

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

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

BASIS FOR RECOMMENDATION

On May 15, 2012, Mayor Lee, along with co-sponsors Supervisor Wiener and Supervisor Olague, introduced both the proposed TIDF ordinance as well as a proposed ordinance establishing the Transportation Sustainability Program. The Transportation Sustainability Program (TSP) is designed to resolve the inconsistency between the City's adopted policies and programs – which emphasize multimodal transportation solutions – and the focus on speed of automobile throughput which currently exists under the City's review of environmental impacts of proposed projects under the California Environmental Quality Act (CEQA). The TSP has two components: 1) changing the methodology used to analyze transportation impacts under CEQA by eliminating automobile Level of Service as a metric and replacing it with a metric that takes into account all modes of transportation; and 2) establishing a citywide Transportation Sustainability Fee (TSF) to offset impacts of new development to the City's transportation network. Taken together, the change to the transportation impact analysis methodology and the establishment of a citywide transportation impact fee ensures that development's cumulative impacts to the transportation system are offset by improvements to the system as whole, in line with City policies and priorities, including the longstanding *Transit First* policy[6].

The Planning Department is preparing an Environmental Impact Report (EIR) to study the changes proposed under the TSP and their effects on the cumulative transportation system impacts of twenty years of project development. Because the TSP cannot move forward until the EIR is completed and certified, the TSP ordinance is being held at the Board of Supervisors until CEQA review is complete, enabling the Planning Commission to provide a recommendation to the Board.

In the absence of the TSP, the TIDF serves as the City's mechanism to offset new development's impacts on the transit system. Although the TIDF is indexed each year to adjust for inflation, no adjustment to

[6] In 1973, the San Francisco City Planning Commission and Board of Supervisors adopted the Transit First policy, giving top priority to public transit investments as the centerpiece of the City's transportation policy.

the TIDF base rates has been made since it was last updated in 2004, and the fee indexing has not kept pace with the increase in costs associated with providing the transit service required by new development. In addition, with the consolidation of the TIDF under Article 4 of the Planning Code, a number of technical and clarifying corrections are required for the appropriate assessment and imposition of the TIDF. For these reasons, the Department supports an update to the TIDF ordinance.

However, the Department recommends a number of modifications to the proposed ordinance, to bring the ordinance into greater alignment with the proposed TSP and to further correct administrative concerns. Those modifications are described below.

Recommendation #1: Introduce a Policy Credits Program

The proposed TSP ordinance establishes a Policy Credits program to support desirable programs and/or policy outcomes by providing a reduction to or waiver from the TSF. The Policy Credits program would provide fee reductions to or waivers from the TSF to the following types of projects:

- Projects which build less than the maximum allowed parking in those Zoning Districts with such maximums
- Non-formula retail small businesses using existing vacant space less than 5,000 square feet
- Affordable housing projects
- Small residential projects, defined as projects of 20 units or less

The Department recommends implementing the Policy Credits program developed under the TSP with the proposed update of the TIDF. Because the TIDF does not apply to residential, the Department recommends establishing a Policy Credits program for projects building reduced parking and for non-formula retail small businesses using existing vacant space less than 5,000 square feet. Similar to the TSP's Policy Credits program, the TIDF Policy Credits program could allocate three percent of annual projected TIDF revenue (approximately $740,000), which would be applied to projects qualifying for the Policy Credits on a first-come, first-served basis. Projects could receive a Policy Credit up to 90 percent of the total fee owed. The SFMTA Board has indicated that while it is supportive of the Policy Credits program as it applies to the TSP, it would like to cap the total Policy Credit amount provided to any project to recognize that all new development has an impact on the transportation system. A cap of 90 percent would serve that purpose.

In conducting outreach on the proposed TIDF, staff has heard concern from small businesses that the reduction in the square footage exemption threshold would result in more fees for more projects. Establishing the Policy Credits program would allow small businesses occupying up to 5,000 square feet to avoid paying the TIDF, where as the current exemption threshold is 3,000 square feet. In addition, the Department recommends extending the grandfathering period for the square footage threshold change to December 1, 2012, from October 1, 2012, as the proposed TIDF ordinance is unlikely to be enacted prior to November 2012.

Recommendation #2: Extend the Grandfathering Period for Non-Profit and Institutional Uses

The proposed TSP ordinance levies the TSF on all new development, including residential and non-profit and institutional uses, with the exception of single-family homes and those projects qualifying for Policy Credits as described above. In order for the proposed TIDF to align with the proposed TSP, the

Department supports extending the TIDF to non-profit and institutional uses. However, the proposed TSP is approximately 18 months from implementation, providing non-profit and institutional uses with time to adjust their capital planning and programming to account for imposition of a new impact fee. The Department recommends extending the grandfathering period provided in the proposed TIDF to similarly allow lead time for these types of projects to adjust their fundraising or other capital funding mechanisms in order to accommodate the TIDF. The Department recommends extending the grandfathering period from October 1, 2012 to January 1, 2014, or approximately the date at which the TSP may take effect if adopted.

Recommendation #3: Retain the Five-Year Timeframe for Inactive Uses

As noted above, the proposed TIDF changes the timeframe under which a prior use must be "active" to conform to the Planning Code's definition of abandoned uses. However, that definition applies only to cases of conditional or nonconforming uses. The Department has heard concern from small businesses about this proposed change. The Department also believes that the language in the current TIDF more clearly and accurately reflects the intent to provide a prior use credit when a site has been active in the preceding five years. Therefore, the Department recommends retaining the language in the current TIDF which states that "a credit for prior use may be given only if the prior use was active on the site within five years before the date of the application for a building or site permit for the proposed use".

Recommendation #4: Provide SFMTA with Collection and Appeal Procedures and Authority

In July 2010, Article 4 of the Planning Code established the Department of Building Inspection (DBI) as the responsible party for collection of impact fees, including the TIDF. While each impact fee is due at a prescribed time, all fees, even if deferred, must be collected by DBI prior to issuance of the first certificate of occupancy. After a certificate of occupancy is issued, DBI has little, if any, contact with the project sponsor. Prior to its inclusion in Article 4 of the Planning Code, the TIDF was collected by the SFMTA upon the earlier of (1) the date when 50 percent of the net rentable area of the project had been occupied; or (2) issuance of the temporary certificate of occupancy (TCO) and as a condition precedent to issuance of a certificate of final completion and occupancy (CFC). During the transition period and in some earlier cases – in part because multiple agencies were involved in issuing permits and collecting fees – some projects owing TIDF were allowed to move forward without paying the fees due. This leaves a category of projects where TCO or CFC has been issued but the TIDF has not been paid.

The Department recommends establishing authority with the SFMTA to collect TIDF in those cases where the TCO or CFC has already been issued. Because DBI does not routinely have contact with project sponsors after these permits have been issued, DBI is not in a position to administer TIDF collection in these cases. The SFMTA can dedicate the resources necessary to ensure that all projects owing the TIDF pay the TIDF.

Related to this, the Department recommends establishing an appeal mechanism for the SFMTA so that in those cases where the SFMTA notifies a project sponsor of the TIDF due (applicable when a project's building or site permit was issued prior to July 1, 2010), the project sponsor has the ability to pursue reconsideration of the amount due. A parallel appeal mechanism exists in Article 4 of the Planning Code and applies when the assessment and imposition of the fee is done by the Planning Department.

Recommendation #5: Clarify the Accessory Use Provision to Exclude Residential

As noted above, the proposed ordinance states that a use which is accessory to a use which is exempted from the TIDF is nonetheless levied the TIDF if the accessory use is not itself exempt. The proposed TIDF ordinance does not apply the TIDF to residential uses; however, the language on accessory uses may be read to apply to those uses which are accessory to residential. As this was not the intent of the proposed ordinance, the Department recommends clarifying the accessory use provision to clearly identify that uses accessory to residential are also exempted from the TIDF. It should be noted that the TIDF does apply to the portion of mixed use development that is non-residential, both currently and under the proposed ordinance.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Article 4 by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); and 2) amending Sections 408, 411.1 through 411.5, 411.7 and 411.8 to increase TIDF rates and clarify TIDF implementation and collection would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15273 of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Department has received one phone call comment in regard to the proposed Ordinance. The comment was against the proposal to charge independent schools the TIDF and in support of the remainder of the proposed ordinance. The Department also received one email in regard to the proposed Ordinance. The email asked the City to reconsider the proposal to apply the TIDF to uses defined as "Wholesale Storage of Materials and Equipment", questioning whether these had a significant impact on transit service demand and expressing that a new fee for such uses could be the determining factor in a project not being able to move forward.

In addition, the Department provided an informational presentation on the proposed TIDF ordinance to the Small Business Commission on June 11, 2012. The Small Business Commission passed a resolution which: 1) encouraged the Board of Supervisors to retain the current 3,000 square foot exemption threshold; 2) encouraged the Board of Supervisors to retain the current five-year inactivity timeframe; and 3) encouraged the Board of Supervisors to implement the Policy Credits program for non-formula retail small businesses occupying existing vacant space less than 5,000 square feet IF the Board of Supervisors chose NOT to retain the current 3,000 square foot exemption threshold. A copy of the Small Business Commission's resolution is attached.

RECOMMENDATION:	Recommendation of Approval with Modification

~~Attachments:~~ Not provided to the Board of Supervisors.
~~Exhibit A:~~ ~~Draft Planning Commission Resolution~~ Provided only to Commission.

File # 120523 120524

SAN FRANCISCO PLANNING DEPARTMENT

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2012 MAY 15 AM 11:07

MEM

DATE: May 15, 2012

TO: Members, Board of Supervisors

FROM: John Rahaim, Director of Planning

RE: Transportation Sustainability Program and Transit Impact Development Fee Ordinances

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The Planning Department is very pleased to transmit to you documentation to support a new Transportation Sustainability Program for San Francisco. Together, the four attached documents provide the means for San Francisco to better meet the City's longstanding *Transit First* policy. These documents represent a major milestone in the creation of this program, and were prepared in partnership with staff at our sister agencies: the San Francisco Municipal Transportation Agency, the San Francisco County Transportation Authority, and the Office of Economic & Workforce Development.

The attached items include: an ordinance establishing a Transportation Sustainability Fee; the *San Francisco Transportation Sustainability Fee Nexus Study – Final Report;* an ordinance updating the Transit Impact Development Fee; and the *San Francisco Transit Impact Development Fee Update* Nexus Study.

Timeline and Process. Building on policy direction from the Board of Supervisors, the Planning Commission, and the Municipal Transportation Agency Board of Directors, City staff has developed a proposed Transportation Sustainability Program (TSP), which would better support the City's *Transit First* policy by modifying the City's practices relative to development review. Before it can be implemented, the TSP requires environmental review. Environmental review is anticipated to be completed in approximately 18 months. In the meantime, the Transit Impact Development Fee (TIDF) serves as the City's primary mechanism for addressing the impacts of new development on the City's transportation system. The Board of Supervisors is asked to consider the TIDF ordinance and accompanying nexus study now – including by forwarding the two items to the Planning Commission for review and recommendation – so that needed adjustments to the TIDF may be made while environmental review is underway on the TSP. The Transportation Sustainability Fee (TSF) ordinance is proposed to be held in committee by the Board of Supervisors until environmental review is complete, at which time the ordinance may be forwarded to the Planning Commission for its standard review and recommendation process. A resolution extending the timeframe for the Planning Commission's review of the TSF ordinance accompanies this memorandum.

Transportation Sustainability Program. The TSP enables the City to better meet its *Transit First* policy by: 1) changing the methodology used to analyze transportation impacts under the California Environmental Quality Act (CEQA) by eliminating automobile Level of Service as a metric and replacing it with metrics that take into account all modes of transportation; and 2)

establishing a citywide Transportation Sustainability Fee to offset the impacts of new development to the City's transportation network. Taken together, the change to the transportation impact analysis methodology and the establishment of a citywide transportation impact fee ensure that development's cumulative impacts to the transportation system are offset by improvements to the system as a whole, in line with City policies and priorities. The establishment of a citywide transportation impact fee is the subject of the TSF ordinance.

Transportation Sustainability Fee. The TSF ordinance establishes a citywide transportation impact fee which applies to residential (with the exception of single-family homes) as well as commercial uses. The TSF would enable new development to alleviate its burden on citywide transportation system performance by funding categories of transportation projects shown to directly offset the impacts of growth from new development. These improvement projects mitigate the cumulative impacts of future development. As such, the TSF is the first impact fee in San Francisco that is integrated with the CEQA process such that the fee paid serves to mitigate the cumulative environmental impacts identified under CEQA[1]. The improvement project categories, as well as representative projects, are included in the TSF ordinance and in the *San Francisco Transportation Sustainability Fee Nexus Study – Final Report* ("TSF Nexus Study").

The proposed fee rates derive from the TSF Nexus Study and are based both on each development type's proportionate impact to the transportation system and on a financial feasibility analysis conducted in conjunction with the nexus study. The fees as proposed are lower than the overall fee levels that are justifiable under the Mitigation Fee Act. City staff will update the financial feasibility analysis prior to consideration of the TSF ordinance for adoption and may propose changes to the TSF rates at that time, based on that analysis. Transit, bicycle, and pedestrian projects are not subject to the TSF. Single-family residential projects – both new development and additions – are exempted from the fee. In addition, a general exemption for development projects building less than 800 gross square feet is provided under the TSF, with some exceptions.

The TSF is structured to allow for policy credits in order to support desirable programs and/or policy outcomes by providing a reduction to or waiver from the TSF. The Policy Credits program includes reduced or waived fees for: 1) projects which build less than the allowable maximum parking; 2) non-formula retail small business uses occupying or expanding pre-existing commercial space less than 5,000 gross square feet; 3) affordable housing projects; and 4) small residential development projects of twenty units or less. A fuller discussion of this program and its open policy considerations is provided below.

---

[1] The TSP Environmental Impact Report (EIR) will determine the extent to which the proposed TSF and associated expenditure program may serve as a mitigation program. Until the EIR has analyzed this proposal, no mitigation program can be fully assumed.

The TSF and associated expenditure program will be administered consistent with the City's existing capital programming process, with projects approved by the relevant policy bodies and by the Board of Supervisors as part of the City's Capital Plan. Every five years the TSF Nexus Study and expenditure program will be updated in concert with, as necessary, updated environmental review. Because the TSF is likely to leverage a significant amount of Proposition K funding and because the expenditure program must comprehensively meet the impacts of development on the transportation system and therefore constitutes an important component of the City's overall transportation planning, the Transportation Authority Board will review the expenditure program every five years in coordination with its five-year Proposition K programming process. The TA Board will make recommendations on the use of TSF funds, taking into account the City's comprehensive transportation needs and investment plans.

Transit Impact Development Fee. The TIDF is an existing impact fee on nonresidential development which, in the absence of an approved TSF, serves as the City's primary mechanism to offset development's impacts on the City's transit system. State law requires that jurisdictions update the nexus study underlying an impact fee every five years and that the Board of Supervisors act to adopt the relevant nexus study's conclusions. The San Francisco Municipal Transportation Agency (SFMTA) completed an updated nexus study for the TIDF in 2011 and seeks the Board's adoption of that nexus study at this time.

Fee rates under the TIDF have not been updated since 2004. In the past eight years, the cost to offset development's impact on the transit system have increased, and an adjustment in TIDF rates is required in order to effectively address those impacts. The TIDF ordinance proposes adjustments to the TIDF rates which are consistent with the fee rates proposed under the TSF. Because the TSF cannot be enacted until its environmental review is complete – approximately 18 months – the TIDF serves as the "bridge" allowing the City to address development impacts until the more comprehensive Transportation Sustainability Program may be implemented. The TIDF ordinance proposes to extend the TIDF to nonprofit and institutional uses, which are not currently covered by the TIDF. The ordinance proposes to exempt from the fee those nonprofit and institutional uses which apply for any entitlement with the Planning Department prior to October 1, 2012. The TIDF ordinance <u>does not</u> extend the TIDF to residential uses.

Transportation Sustainability Fee Policy Credits Program. As noted above, the TSF includes a Policy Credits program to support desirable programs and/or policy outcomes. The Policy Credits program is constrained by the amount of total funding available under the TSP and the City's need to address and, potentially, fully mitigate development's impacts on the transportation system through application of the fee. Therefore, there is a maximum of $40 million available to the Policy Credits program over twenty years, or approximately six percent of projected TSF revenue. As drafted, the TSF ordinance does not prioritize among the four policy objectives eligible for Policy Credits. A brief description of each policy objective is provided below, along with open questions on which staff seeks the Board's direction.

- **Small Businesses.** The TSF ordinance provides a policy credit for non-formula retail small businesses expanding or occupying pre-existing commercial space not exceeding 5,000 gross square feet. This credit is intended to support small business development in San Francisco and recognizes the often narrow margin in which small businesses operate.

- **Reduced Parking Developments.** The TSF ordinance provides that, in zoning districts that set a parking maximum, projects may receive a policy credit for building less than the allowable maximum parking. This credit is intended to support the City's *Transit First* policy by encouraging mode shift away from automobiles and by encouraging Transit Oriented Development. The TIDF Nexus Study Update examined as a policy option a reduction in the TIDF rate for projects which build less than the allowable maximum or minimum parking. For a more comprehensive analysis of the behavioral and policy implications of a policy credit for reduced parking, please see Section Three of the TIDF Nexus Study Update. The TIDF ordinance does not include a policy credit for reduced parking developments.

- **Affordable Housing Projects.** The TSF ordinance establishes a policy credit for affordable housing developments. The credit is intended to support the City's policy objective of expanding the availability of affordable housing in San Francisco. It also recognizes that, because much of the affordable housing built in San Francisco is subsidized by the City, payment of the TSF would in essence take public funds from one use (affordable housing) and transfer it to another (supporting the transportation system).

- **Small Residential Projects.** The TSF ordinance establishes a policy credit for small residential development projects, defined as those projects comprised of twenty units or less. This credit is intended to support needed development of the City's housing stock.

Questions for Consideration. As noted above, the TSF ordinance does not prioritize among the four policy objectives eligible for Policy Credits. It also establishes a to-be-determined cap on the amount of Policy Credits any individual development project may receive. Staff seeks the Board's guidance on these issues, as discussed in detail below.

Share of Credits Available to Individual Projects. In conducting stakeholder outreach, staff received feedback, especially from members of the SFMTA Board of Directors, that no individual development project should receive a fee waiver of 100 percent. The SFMTA Board members wished to recognize that each development project has an impact on the transportation system. As currently drafted, the TSF ordinance states that "no single new development shall receive more than TBD%...of available Policy Credits...". Staff seeks the Board's guidance on: 1) whether such a limitation should be included; and 2) if so, at what percentage.

Share of Credits Available to Individual Policy Objectives. As drafted, the TSF ordinance does not prioritize among the four policy objectives outlined above. However, in order to ensure that no one category consumes the entire amount of policy credits available, the draft TSF ordinance provides that "no single category of Policy Credits...shall receive more than TBD% of...available Policy Credits...". **Staff seeks the Board's guidance on: 1) whether a prioritization among the listed policy credits is warranted; 2) whether a cap on any individual policy credit is appropriate; and 3) if so, whether the Board wishes to legislate this cap or to allow for it to be administratively determined.**

Timeline. As a reminder, staff requests that the Board of Supervisors consider the TIDF ordinance and nexus study update now. The TSF ordinance is proposed to be held in committee until its environmental review is complete, in approximately 18 months. However, staff further requests that the Board give consideration to the policy questions outlined above so as to inform future discussions on the TSF. Thank you.

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Att.

CAMBRIDGE SYSTEMATICS

San Francisco Transit Impact Development Fee Update

final draft report

prepared for

City and County of San Francisco

prepared by

Cambridge Systematics, Inc.

with

Robert D. Spencer (Urban Economics)

final draft report

San Francisco Transit Impact Development Fee Update

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February 2011

Table of Contents

1.0 Introduction 1-1

2.0 Maximum Justified (Base Service Standard) Rates 2-1

3.0 Discount for Reduced Parking 3-1

A. Appendix A: Trip Generation Rates A-1

B. Appendix B: SF CHAMP Regression Analysis B-1

C. Appendix C: Economic Activity Category Definitions C-1

D. Appendix D: Net Present Value Factor D-1

List of Tables

Table 2.1 Net Annual Cost Per Revenue Service Hour 2-1

Table 2.2 2009 Trip Generation 2-3

Table 2.3 Net Annual Cost Per Trip 2-4

Table 2.4 Base Service Level Standard 2-4

Table 3.1 TIDF Discount Based on Parking Provided by Development Project 3-2

Table A.1 SF CHAMP-Derived Trip Generation Rates A-3

Table A.2 San Francisco Planning Department Trip Generation Rates for Office, Retail, Visitor, and Industrial Categories A-4

Table A.3 Source of Composite Trip Generation Rates for Residential, Medical and Health Services, and Cultural/Institution/Education Categories A-5

Table A.4 Comparison of Motorized Trip Generation Rates for Economic Activity Categories *Motorized Person-Trips Per Dwelling Unit or 1,000 sq. ft.* A-6

Table A.5 TIDF Trip Generation Rates by Economic Activity Category A-7

Table A.6 Residential Subcategory Trip Generation Rates A-8

Table A.7 Cultural/Institution/Education Subcategory Trip Generation Rates A-9

Table A.8 Retail/Entertainment Subcategory Trip Generation Rates A-9

Table A.9 TIDF Motorized Trip Generation Rates A-10

Table B.1 SF CHAMP-Derived Trip Generation Rates B-2

Table D.1 Inflation and Interest Rates D-1

Table D.2 Net Present Value Factor D-2

1.0 Introduction

Section 411 of the Planning Code of the City and County of San Francisco (the Code) authorizes the City to impose a Transit Impact Development Fee (TIDF) on new development. The Board of Supervisors sets TIDF rates for six nonresidential economic activity categories up to a maximum level. This maximum level is identified in Section 411 as the "base service standard".

Section 421.7 (formerly Section 326.8) of the Code approved in April 2008 authorizes a nexus study to determine if an impact fee is also justified (1) for residential development, and (2) for variations in parking supply associated with development projects. This update integrates residential development into the TIDF by adding it as a seventh economic activity category. This update also integrates parking supply into the TIDF by proposing discounted rates for development projects that restrict parking.

2.0 Maximum Justified (Base Service Standard) Rates

As required by Section 411.5 of the Code, this report updates the maximum justified TIDF rates by economic activity category based on the most recent available data.

This update is based on the same methodology used to calculate the current maximum justified rates and is presented in the following four steps:

1. Calculate the net annual cost per revenue service hour.
2. Calculate trip generation.
3. Calculate the net annual cost per trip.
4. Calculate the maximum justified (base service standard) rate by economic activity category.

We calculated net annual cost per revenue service hour based on fiscal data for the San Francisco Municipal Transportation Agency (SFMTA). The changes incorporated into this update reflect use of the most recent available data which is for fiscal year 2008-2009. The updated net annual cost per revenue service hour is presented in Table 2.1.

Table 2.1 Net Annual Cost Per Revenue Service Hour

	Formula	Updated Value	Source	Justification
A. Calculate Total Annual Costs				
Annual Operating Costs	a	$610,493,175	National Transit Database	Most recently reported data (FY 2009)
Average Annual Capital Costs[a]	b	$112,389,896	National Transit Database	Most recently reported data (FY 2005-FY 2009 average)
Total Annual Costs	c = a+b	$722,883,071	Calculated	Revised result
B. Calculate Net Annual Costs				
Total Annual Costs	c	$722,883,071	Calculated	Revised result
Non-Vehicle Maintenance	d	($41,159,600)	National Transit Database	Most recently reported data (FY 2009)
General Administration	e	($162,802,500)	National Transit Database	Most recently reported data (FY 2009)

Table 2.1 Net Annual Cost Per Revenue Service Hour (continued)

	Formula	Updated Value	Source	Justification
B. Calculate Net Annual Costs				
Farebox Revenue	f	($152,114,027)	National Transit Database	Most recently reported data (FY 2009)
Federal and State Capital Funds[a]	g	($73,158,896)	National Transit Database	Most recently reported data (FY 2005-FY 2009 average)
Total Net Annual Costs	h=c+d+e+f+g	$293,648,048	Calculated	Revised formula inputs
C. Calculate Net Annual Cost Per Revenue Service Hour				
Net Annual Costs	h	$293,648,048	Calculated	Revised result
Average Daily Revenue Service Hours[b]	i	9,643	National Transit Database	Most recently reported data (FY 2009)
Net Annual Cost Per Daily Revenue Service Hour	j=h/i	$30,452	Calculated	Revised result

[a] Capital costs and funding are averaged using data for the most recent five fiscal years because of the relative volatility of the capital program from year to year.

[b] Based on annual revenue service hours reported in National Transit Database divided by 365.

Source: National Transit Database (http://www.ntdprogram.gov).

We updated estimates of total trip generation based on updated land use data provided by the San Francisco Planning Department and updated trip generation rates. The land use data is updated to 2009 to be consistent with the fiscal data in Table 2.1. Residential development is included to comply with Section 421.7 and enable calculation of residential maximum justified fees (base service standard). Trip generation rates have been revised to more closely reflect current Planning Department guidelines for transportation impact analysis and incorporate more recent data (see Appendices A through C). Total estimated trip generation for 2009 is shown in Table 2.2.

Table 2.2 2009 Trip Generation

Trip Generation	2005	2010	2009[a]	Sq. Ft. (per emp.)	Building Vacancy Rate	Building Space (ksf)	Trip Rate[b]	Trips
	(dwelling units or employment)							
Formula	a	b	c = a + .80 * (b-a)	d	e	f = c * d / (1 - e) / 1,000	g	h = c * g or h = f * g
Residential	358,644	367,575	365,789	NA	NA	NA	7	2,560,523
Nonresidential								
Management, Information and Professional Services	275,380	293,901	290,197	276	5.0%	84,310	13	1,096,030
Retail/Entertainment	88,710	95,997	94,540	350	5.0%	34,831	65	2,264,015
Production, Distribution, Repair	73,003	64,174	65,940	567	5.0%	39,356	7	275,492
Cultural/Institution/ Education	59,524	58,329	58,568	350	5.0%	21,578	23	496,294
Medical and Health Services	38,027	37,543	37,640	350	5.0%	13,867	22	305,074
Visitor Services	17,350	20,090	19,542	441	5.0%	9,072	13	117,936
Total (emp or ksf)	551,994	570,034	566,427			203,014		
Total (trips)								7,115,364

Note: "emp" refers to employment and "ksf" refers to thousand building square feet of nonresidential space.

[a] Estimate for 2009 based on interpolation of 2005 and 2010 estimates. This year is used to be consistent with the fiscal data in Table 2.1.

[b] Person-trip rates are for auto and transit and exclude bicycle and pedestrian trips.

Sources: Aksel Olsen, San Francisco Planning Department, Land Use Allocation Model Output (ID 726 December 23, 2009, and ID 926 April 7, 2010); Aksel Olsen, San Francisco Planning Department, memorandum to Elizabeth Sall, San Francisco County Transportation Authority, regarding San Francisco Land Use Allocation, January 27, 2010, Tables 1 and 2, p. 10; Appendix A.

Net annual cost per trip is calculated based on the results from Tables 2.1 and 2.2, and is shown in Table 2.3.

Table 2.3 Net Annual Cost Per Trip

	Formula	Amount	Amount
Net Annual Cost per Revenue Service Hour	a		$30,452
Average Daily Revenue Service Hours	b	9,643	
2009 Total Annual Trips[a]	c	7,115,364	
Revenue Service Hours Per 1,000 Trips	d = b/c * 1,000		1.3552
Net Annual Cost Per Trip[a]	e = a * d/1,000		$41.27

[a] Auto and transit trips only. Excludes bicycle and pedestrian trips.

Sources: Tables 2.1 and 2.2.

Finally, the updated maximum justified rates by economic activity category are calculated based on the trip generation rates shown in Table 2.2, the net annual cost per trip shown in Table 2.3, and the net present value factor. Calculation of the net present value factor has been updated based on five-year average inflation and interest rates through FY 2008-2009 (see Appendix D). The updated maximum justified fees (base service standard rates) are shown in Table 2.4.

Table 2.4 Base Service Level Standard

Economic Activity Category	Trip Rate (per unit or ksf)	Net Annual Cost per trip ($/trip)	Net Annual Cost (per unit or sq. ft.)	Net Present Value Factor[a]	Base Service Standard Rate (per unit)	Square Feet (per unit[b])	Base Service Standard Rate (per sq. ft.)
Residential							
Formula	a	b	c = a * b	d	e = c * d	f	g = e / f
2+ Bedrooms	8	$41.27	$330	34.40	$11,352	1,250	$9.08
1 Bedroom/Studio	6	$41.27	$248	34.40	$8,531	1,090	$7.83
Senior Housing	4	$41.27	$165	34.40	$5,676	1,090	$5.21
Other Residential	7	$41.27	$289	34.40	$9,942	1,160	$8.57
Nonresidential							
Formula	a	b	c = a * b/1,000	d			g = c * d
Management, Information and Professional Services	13	$41.27	$0.54	34.40			$18.58

Table 2.4 Base Service Level Standard (continued)

Economic Activity Category	Trip Rate (per unit or ksf)	Net Annual Cost per trip ($/trip)	Net Annual Cost (per unit or sq. ft.)	Net Present Value Factor[a]	Base Service Standard Rate (per unit)	Square Feet (per unit[b])	Base Service Standard Rate (per sq. ft.)
Formula	a	b	c = a * b/1,000	d			g = c * d
Retail/Entertainment							
Supermarket	127	$41.27	$5.24	34.40			$180.26
Quality Sit-Down Restaurant	86	$41.27	$3.55	34.40			$122.12
Fast Food Restaurant	602	$41.27	$24.84	34.40			$854.50
Restaurant — Composite Rate	258	$41.27	$10.65	34.40			$366.36
Athletic Clubs	25	$41.27	$1.03	34.40			$35.43
Cineplex Theaters	22	$41.27	$0.91	34.40			$31.30
Other Retail, Including General Retail	65	$41.27	$2.68	34.40			$92.19
Production, Distribution, Repair	7	$41.27	$0.29	34.40			$9.98
Cultural/Institution/Education							
Day Care/Community Center	54	$41.27	$2.23	34.40			$76.71
Post-Secondary School	38	$41.27	$1.57	34.40			$54.01
Museum	12	$41.27	$0.50	34.40			$17.20
Other Cultural/ Institution/ Education	23	$41.27	$0.95	34.40			$32.68
Medical and Health Services	22	$41.27	$0.91	34.40			$31.30
Visitor Services	13	$41.27	$0.54	34.40			$18.58

Note: Values per ksf and per sq. ft. refer to gross building square feet, and "ksf" refers to thousand building square feet of nonresidential space.

[a] Net present value factor represents the multiplier for $1.00 in annual costs to be fully funded over a 45-year period, given interest earnings and inflation.

[b] Gross building square feet.

Sources: Seifel Consulting, Inc., San Francisco Eastern Neighborhoods Nexus Study, prepared for the City of San Francisco Planning Department, May 2008; Tables 2, 3, and Appendix D Table D.2.

Unlike the current TIDF rates the updated rates shown in Table 2.4 are divided into subcategories for the retail/entertainment and cultural/institution/education economic activity categories as well as the newly added residential category. The use of subcategory rates in these areas reflects the comparatively greater diversity of trip generation rates among these types of land uses. The trip rates developed for the subcategories reflect current San Francisco Planning Department practice and the most recent available data.

3.0 Discount for Reduced Parking

As mentioned previously, Section 421.7 of the Code requires an analysis of the impact of parking supply on transit infrastructure. This section provides that analysis.

The trip generation rates underlying the TIDF already account for the overall effect of parking, among many other factors. That forecloses the possibility of adding a parking-based surcharge to the overall fee, because such a surcharge would effectively charge for parking twice. But there is also insufficient data to require a lower TIDF rate for development projects that provide reduced parking, because the current state of research has not yet established a quantifiable relationship between lower parking levels and fewer motorized (automobile and transit) trips. Simply shifting trips from automobiles to transit as a result of less parking supply is not a sufficient justification to lower the TIDF because the impact of development on transit is based on the total number of motorized (auto plus transit) trips generated by a development project. As explained in the 2001 TIDF study, "...increases in both auto and transit have a direct impact on transit service. Increases in transit trips tax already crowded routes, while increases in auto trips result in overall increases in congestion, which slows transit vehicles and increases the cost of providing transit service."[1]

Cambridge Systematics conducted an extensive review of the research literature regarding the impact of parking supply on travel behavior. The review found very few studies that directly analyzed the impact of restricted parking supply on the number of motorized trips generated by a development project. One recent unpublished study noted that "[d]espite the many arguments against minimum parking requirements, there has been virtually no research conducted to specifically describe... the influence of the availability of a residential off-street parking space on individuals' travel behavior."[2]

It is challenging to try to quantify the relationship between parking and trip generation because it is difficult to isolate the effect of parking supply from the many other variables that affect trip generation and mode choice (auto, transit, bike, and pedestrian). Although many studies have examined mode choice in response to parking pricing, pricing is not a proxy for parking supply.

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[1] Nelson/Nygaard Associates, *Transit Impact Development Fee Analysis*, Technical Memorandum #6 – Calculation of Fee Schedule prepared for the San Francisco Planning Department, April 2001, p. 3.

[2] Sherman, Alyssa B., *The Effects of Residential Off-Street Parking Availability on Travel Behavior in San Francisco*, presented to the Department of Urban and Regional Planning, San José State University, in partial fulfillment of the Master in Urban Planning degree, May 2010, p. 15.

The unpublished study cited above did conduct a survey in San Francisco of 182 residents to examine the effect of off-street parking availability and parking maximum zoning policies on travel behavior. The survey found that residents without off-street parking or living in areas with parking maximums commute by bicycle more often than those with off-street parking or living in areas without parking maximums. However, the survey was not able to find a correlation between restricted parking and fewer motorized trips overall (auto and transit). Thus, although a precise relationship between parking supply and motorized trip generation has not been documented at this time, the research does suggest the potential for a positive correlation (less parking causes fewer motorized trips). To provide an incentive to shift travel to non-motorized (bike and pedestrian) trips, policymakers may but are not required to adopt a policy lowering the TIDF in areas with restricted parking supply.

A proposed fee discount for development projects that choose to restrict parking supply is shown below in Table 3.1. The parking discount rates are separated between projects located in areas with minimum and maximum parking requirements. The former typically represents areas of the city that have not had a recent zoning update. The latter typically represents areas with recently plans adopted within the past 15 years such as Downtown, Eastern Neighborhoods, Market and Octavia, Mission Bay, and Rincon Hill.

Table 3.1 TIDF Discount Based on Parking Provided by Development Project

A. For Development Projects In Zoning Districts With MINIMUM PARKING Requirements (No Maximum Specified)

	No Parking [a]	25% of Minimum [a]	50% of Minimum [a]	75% of Minimum [a]	100% of Minimum	Above Minimum
TIDF Discount	50%	40%	30%	20%	10%	0%

B. For Development Projects In Zoning Districts With MAXIMUM PARKING Requirements (No Minimum Specified)

	No Parking	25% of Maximum	50% of Maximum	75% of Maximum	100% of Maximum	Above Maximum [b]
TIDF Discount	40%	30%	20%	10%	0%	0%

[a] Parking levels below 100 percent of minimum would require a zoning variance.

[b] Parking levels above 100 percent of maximum would require a zoning variance.

The discounts shown in Table 3.1 reflect the following considerations:

- Discounts increase as a development project further restricts parking below either the minimum or maximum required level;

- No development project is granted a discount higher than 50 percent even if no parking is supplied because there will be the need for increased transit service regardless of the level of automobile trip generation; and
- Discounts are greater for development projects in areas with minimum as opposed to maximum parking requirements because of the additional effort required to obtain a variance to restrict parking below the minimum required level.

A. Appendix A: Trip Generation Rates

This Appendix presents trip generation rates to be used in the update to the Transit Impact Development Fee (TIDF), including trip generation rates by economic activity category and for subcategories.

A.1 Trip Generation Rates by Economic Activity Category

We developed trip generation rates for each of the seven economic activity categories used by the City to analyze the impact of growth on the transportation system.[3]

We developed trip rates for economic activity categories and subcategories by evaluating estimates from the following sources:

- The San Francisco Chained Activity Modeling Process 4.0 Travel Demand Model (SF CHAMP model) using a regression analysis to estimate emergent trip rates by economic activity category;
- Trip generation rates compiled by the San Francisco Planning Department's Major Environmental Analysis Division, which are based primarily on traffic impact studies completed in San Francisco; and
- A national compilation of local studies published by the Institute of Transportation Engineers (ITE) in their 8th Edition *Trip Generation* (2008).

The first source, the SF CHAMP model, was not available when the TIDF was last reviewed in 2004. The second source provides the basis for current TIDF trip generation rates. The third source is the most commonly cited national reference source on this topic. This appendix analyzes all three sources to select rates for the TIDF update.

Trip generation rates in this appendix refer to all motorized trips, both automobile and transit trips, and exclude bicycle and pedestrian trips, unless otherwise noted. Trip rates are average daily one-way trip rates and are expressed as person-trips, not vehicle trips. A person-trip is a trip taken by an individual and should not be confused with a vehicle trip.[4]

[3] The SF CHAMP travel demand model used by the city to evaluate impacts on the transportation system includes six nonresidential categories covering all employment-related land uses (cultural/institutional, medical, office, retail, lodging, and industrial) and one residential category for all residential land uses.

[4] A vehicle-trip is a trip taken by a vehicle. For example, an automobile traveling with three occupants represents one vehicle trip and three person-trips. A transit bus traveling with 30 passengers represents one vehicle trip and 30 person-trips.

San Francisco Travel Demand Model Derived Trip Generation Rates

The San Francisco County Transportation Authority has developed the SF CHAMP model to predict the travel patterns of persons traveling to, from, or within San Francisco. This software tool predicts the number of trips made in San Francisco in a given year, including trip origins and destinations, mode of travel (i.e., automobile, transit, pedestrian, bicycle), the duration of travel, and other trip characteristics. The model was developed using surveys of household travel behavior in the San Francisco Bay Area, specifically the Bay Area Travel Survey and the United States Census. Model results are validated (adjusted) based on traffic and transit count data collected by local agencies to ensure accuracy. The SF CHAMP model uses state-of-the-art modeling techniques and has been certified by the Bay Area regional transportation planning agency, the Metropolitan Transportation Commission.[5]

The SF CHAMP model results can be used to predict trip generation rates for each of the economic activity categories that the model uses to describe land use in the city: residential uses; cultural/institutional uses; medical uses; office uses; retail uses; lodging uses; and industrial uses. The SF CHAMP model predicts the number of trips coming from these uses. The number of trips can be related to the number of households associated with residential uses and the number of workers associated with the six nonresidential categories to produce a trip generation rate per household or per worker. This is done through a statistical process known as linear regression. Appendix B describes the regression analysis used to estimate trip generation rates based on the SF CHAMP model in more detail.

Table A.1 shows the trip generation rates by economic activity category estimated by the SF CHAMP model rounded to the nearest whole number, along with motorized (auto and transit) person-trip rates and the share these trips represent as a percent of total person-trips. Total person-trips include bicycle and pedestrian trips. The TIDF relies only on motorized person-trip rates so total trip rates are shown for reference only. All values have been adjusted for vacancy. See Appendix B for more detail.

[5] The model is an "activity-based" travel demand model that is the most sophisticated type of regional travel demand model available today.

Table A.1 SF CHAMP-Derived Trip Generation Rates

SF CHAMP-Derived Trip Generation Rates	Average Daily Motorized Person-Trips	Total Person Trips	Motorized Mode Share
Residential	9	12	75%
Cultural/Institution/Education	16	19	79%
Medical and Health Services	23	29	79%
Management, Information and Professional Services	10	14	71%
Retail/Entertainment	25	34	74%
Visitor Services	11	17	65%
Production, Distribution, Repair	6	6	100%

Note: Trips per Dwelling Unit or 1,000 sq. ft. is used to measure Motorized Person-Trips and Total Person Trips.

Source: San Francisco County Transportation Authority, regression of SF CHAMP 4.0 model output representing 2010 conditions. Analysis produced August 2010.

San Francisco Planning Department Trip Generation Rates

The Major Environmental Analysis (MEA) Division of the San Francisco Planning Department produces guidelines for project proponents to use in preparing environmental impact analyses that contain trip generation rates for a variety of land uses (SF Guidelines).[6] These rates are developed primarily through direct counts at specific sites in the city, for example as a result of transportation impact studies prepared as part of the environmental review process for a development project.

A single representative rate was available from the SF Guidelines for four of the seven economic activity categories (management, information and professional services; retail/entertainment; visitor services; and production, distribution, repair). Table A.2 provides these rates. The table also shows the conversion of these rates that are based on total trips (including bicycle and pedestrian trips) to motorized trips (automobile and transit trips only) using mode share estimates. Mode share estimates are drawn from mode shares contained in the SF Guidelines. The range of mode shares provided reflects the geographic variation in mode share in different regions of the city.

[6] City and County of San Francisco Planning Department, *Traffic Impact Analysis Guidelines*, October 2002, http://www.sfplanning.org/Modules/ShowDocument.aspx?documentid=6753.

Table A.2 San Francisco Planning Department Trip Generation Rates for Office, Retail, Visitor, and Industrial Categories

Economic Activity Category	San Francisco Planning Department Land Use	Total Person-Trips per 1,000 Sq. ft.	Motorized Mode Share	Motorized Mode Share Source (See SF Guidelines)	Motorized Person-Trips per 1,000 sq. ft.
Management, Information and Professional Services	General Office[a]	18	70-95%	Table E-1, E-7	13-17
Retail/ Entertainment	General Retail	150	43-82%	Tables E-8, E-10, E-12, E-14, E-16	65-123
Visitor Services	Hotel/ Motel[b]	21	61–92%	Tables E-11, E-13, E-15, E-17	13–19
Production, Distribution, Repair	Industrial	8	85–93%	Tables E-3 to E-6	7

[a] The general office rate was selected as most representative of management, information and professional services because the rate is reflective of office uses only within the downtown core (C-3) district where the majority of new development in this economic activity category is expected to occur.

[b] The Visitor Services rate of 21 trips per 1,000 square feet was derived from the rate of 7 trips per hotel/motel room listed in the San Francisco Planning Department Guidelines. The trips per room rate was converted into trips per 1,000 sq. ft. using a conversion factor of 330 sq. ft. per room based on 3.50 rooms per employee and 1,156 sq. ft. per employee. The rooms per employee factor is the weighted average of total rooms divided by total employees for the Hotel (category 310) and Motel (category 320) rates from the ITE *Trip Generation Manual*. The square feet per employee factor is from a study conducted for the Southern California Association of Governments.

Sources: City and County of San Francisco Planning Department, *Traffic Impact Analysis Guidelines*, October 2002, Tables C-1, E-1, E-3 to E-8, and E-10 to E-17.

For the three remaining economic activity categories (residential, medical and health services, and cultural/institution/education) no single rate was available in the SF Guidelines to allow direct comparison to the SF CHAMP-derived rates. We developed trip generation rates for these categories by analyzing available rates for more detailed subcategories, as described below.

- **Residential.** For residential land uses, a composite trip generation rate was developed based on a weighted average of rates provided in the SF Guidelines for 1-bedroom/studio units and 2+ bedroom units. Weightings were based on housing stock estimates for 2009 from the U.S. Census Bureau. Person-trip rates were converted to motorized trip rates using the motorized mode share

for residential land uses provided by the SF CHAMP model (see Table A.1). Mode share for residential land uses is not provided by the SF Guidelines.

- **Medical and Health Services.** A composite trip generation rate was developed based on a weighted average of trip generation rates from three recent representative San Francisco projects involving construction of new spaces for medical uses.
- **Cultural/Institution/Education.** A composite trip generation rate was developed based on a weighted average of rates from six recent representative projects, including four museums, a community center, and an academic institution. These studies reflect the types of new development projects most typically occurring within this category.

Table A.3 shows the motorized person-trip rates for these categories.

Table A.3 Source of Composite Trip Generation Rates for Residential, Medical and Health Services, and Cultural/Institution/Education Categories

Category	Source	Motorized Person Trips
Residential	SF Guidelines – weighted average of residential rates for 1-bedroom/studio units and 2-bedrooms or more units	7 per unit
Medical and Health Services	San Francisco Planning Department – weighted average of rates from recent representative projects	22 per 1,000 sq. ft.
Cultural/Institution/ Education	San Francisco Planning Department – weighted average of rates from recent representative projects	23 per 1,000 sq. ft.

Selected TIDF Trip Generation Rates For Economic Activity Categories

To develop the trip generation rate schedule by economic activity category for use in the TIDF program, we compared SF CHAMP model-derived and Planning Department trip generation rates. We also considered average rates based on studies conducted throughout the country and compiled by ITE. Table A.4 presents the comparison, summarizing the rates previously presented and showing comparable rates from ITE.

The ITE source contains data on trip generation rates for 162 individual land uses. For most economic activity categories we could identify an appropriate ITE land use category that could represent the same broad range of land uses reflected by the corresponding economic activity category. ITE did not have an appropriately broad category for the cultural/institutional category so an ITE rate is not shown in Table A.4 for that category.

Overall, the rates presented in Table A.4 show a great deal of consistency among the different sources presented (SF CHAMP, Planning, and ITE). In nearly all cases the Planning Department rates are within plus or minus 30 percent of both the SF CHAMP-derived and ITE rates. These results suggest a high degree of confidence given that ITE studies routinely show standard deviations equal to 50 percent of the mean.[7]

Table A.4 Comparison of Motorized Trip Generation Rates for Economic Activity Categories

Motorized Person-Trips Per Dwelling Unit or 1,000 sq. ft.

Comparison of Motorized Trip Generation Rates for Economic Activity Categories	SF CHAMP-Derived Rates	San Francisco Planning Department Rates	ITE Rates[a]	ITE Land Use Category and Category Number
Residential	9	7	9	Condo/Townhouse – 230
Cultural/Institution/ Education	16	23	N/A	
Medical and Health Services	23	22	25	Hospital – 610
Management, Information and Professional Services	10	13-17	13	General Office – 710
Retail/Entertainment	25	65-123	71	Shopping Center – 820
Visitor Services	11	13-19	29	Motel – 320
Production, Distribution, Repair	6	7	8	Light Industrial – 110

[a] ITE rates are expressed as vehicle trips. Rates were converted to motorized person-trips using auto occupancy factors by trip purpose derived from the 2009 National Household Transportation Survey. A national rather than local occupancy rate was used to be consistent with the fact that ITE rates are collected from national studies. ITE land use categories are too detailed to provide an overall average rate for the cultural/institution/education category. The rate for visitor services was translated from trips per room to trips per 1,000 square feet using conversion factors described in Table A.2.

Sources: Tables A.1, A.2, and A.3; Institute of Transportation Engineers, *Trip Generation*, 8th Edition, 2008.

[7] See results for average vehicle trip ends for land use categories (ITE category number in parentheses) such as General Light Industrial (110), Single-Family Detached Housing (210), Hotel (310), Motel (320), General Office Building (710), and Shopping Center (820) in Institute of Transportation Engineers, *Trip Generation*, 8th Edition, 2008.

Given the consistency between these sources, any source could serve as a generally reliable basis for the TIDF trip generation rate schedule. The Planning Department rates are preferred because:

- Planning Department rates tend to represent a midrange between the two other sources (SF CHAMP and ITE) and are within an acceptable margin given the statistical variance found in ITE trip generation rate studies.
- Planning Department rates are based on empirical studies of trip generation from sites throughout the city.
- Use of the Planning Department rates maintains consistency with current practice for transportation impact analysis by the Department.

For three of the economic activity categories (office, retail, lodging) a range of Planning Department rates was provided reflecting variation in motorized mode shares throughout the city. For all three categories, we selected the low end of the range for the TIDF trip generation rate schedule. The low end was selected to align the rates more with the SF CHAMP-derived rates versus the ITE rates because the former is more reflective of local conditions compared to the latter.

The selected TIDF rates by economic activity category are shown in Table A.5.

Table A.5 TIDF Trip Generation Rates by Economic Activity Category

Economic Activity Category	Source	TIDF Trip Generation Rate (Motorized Person-Trips)
Residential	Derived from SF Guidelines	7 per dwelling unit
Cultural/Institution/Education	SF Planning Dept – average of recent projects	23 per 1,000 sq. ft.
Medical and Health Services	SF Planning Dept – average of recent projects	22 per 1,000 sq. ft.
Management, Information and Professional Services	Derived from SF Guidelines	13 per 1,000 sq. ft.
Retail/Entertainment	Derived from SF Guidelines	65 per 1,000 sq. ft.
Visitor Services	Derived from SF Guidelines	13 per 1,000 sq. ft.
Production, Distribution, Repair	Derived from SF Guidelines	7 per 1,000 sq. ft.

Source: Table A.4.

A.2 Trip Generation Rates For Subcategories

The following four economic activity categories have relatively consistent trip generation rates among the types of land uses reflective of development likely to occur in San Francisco and be subject to the TIDF:

- Medical and Health Services;
- Management, Information and Professional Services;
- Visitor Services; and
- Production, Distribution, Repair.

For these categories the average rate for each category shown in Table A.5 is sufficient to provide a generally reliable approximation of the impact of a specific development project. For the other three economic activity categories (residential, cultural/institutional/education, and retail/entertainment) each includes a wide range of trip generation rates among the land uses within the respective category. For these categories the TIDF trip generation rate schedule uses land use subcategories to provide a more tailored approximation of the impact of a specific development project. Subcategory rates for residential and retail reflect land uses listed in the SF Guidelines. Subcategory rates are developed for the cultural/institutional/education category because this category also has a wide variety of land uses and trip generation rates.[8]

Each category also has an "other" subcategory if a development project falls within the general economic activity category but not any of the specific subcategories. The trip generation rate for the "other" subcategory equals the overall average rate for the economic activity category.

Table A.6 presents subcategory rates for residential land use. The rates are drawn from rates for residential land uses included in the SF Guidelines. These were converted to motorized trips using the motorized mode share for the residential category derived from the SF CHAMP model (Table A.1), because no representative mode share was available from the SF Guidelines.

Table A.6 Residential Subcategory Trip Generation Rates

Residential Subcategory	Source	Motorized Person-Trips
2+Bedrooms	SF Guidelines p. C-3	8 per unit
1 Bedroom/Studio	SF Guidelines p. C-3	6 per unit
Senior Housing	SF Guidelines p. C-3	4 per unit
Other Residential	Table A.3	7 per unit

Notes: Rates in the guidelines were converted from person-trips to motorized trips using motorized mode share for residential drawn from SF CHAMP model output (Table A.1).

Table A.7 presents subcategory rates for the cultural/institutional/education land use category. These rates were developed from recent traffic impact studies

[8] ITE includes over 30 land uses that fall within the cultural/institutional category (Institute of Transportation Engineers, *Trip Generation Manual*, 8th Edition, 2008).

collected by the San Francisco Planning Department (see Table A.5) and from the SF Guidelines.

Table A.8 presents subcategory rates for the retail category. These rates are drawn from rates for retail land uses included the SF Guidelines. Rates were converted to motorized trips using the lower end of the motorized mode share for retail trips available from the SF Guidelines (Table E-11).

Table A.7 Cultural/Institution/Education Subcategory Trip Generation Rates

Cultural/Institution/ Education Subcategory	Source	Motorized Person-Trips
Day Care Center and Community Center	SF Guidelines Table C-1 and Jewish Community Center EIR (1999)	54 per 1,000 sq. ft.
Post-Secondary School	City College Master Plan EIR (2004)	38 per 1,000 sq. ft.
Museum	Average of EIRs from Butterfly Museum (1998), Golden Gate Academy of Sciences Building (2003), Exploratorium (2008), Asian Art Museum (1996)	12 per 1,000 sq. ft.
Other Cultural/Institution/ Education	Composite Rate (Weighted Average)	23 per 1,000 sq. ft.

Notes: The rate for Day Care Center converted to a moforized trip rate using the average mode share of 80 percent for the cultural/institution/education category obtained from the SF CHAMP model.

ITE rates were converted to motorized person-trip rates using the national average automobile occupancy rate of 1.5 for school/day care/religious activity trip purposes (2009 National Household Travel Survey). A national rather than local occupancy rate was used to be consistent with the fact that ITE rates are collected from national studies.

Table A.8 Retail/Entertainment Subcategory Trip Generation Rates

Retail/Entertainment Subcategory	Source	Motorized Person Trips Per 1,000 sq. ft.
Supermarket	SF Guidelines, page C-3	127 per 1,000 sq. ft.
Quality Sit-Down Restaurant	SF Guidelines, page C-3	86 per 1,000 sq. ft.
Fast Food Restaurant	SF Guidelines, page C-3	602 per 1,000 sq. ft.
Restaurant – Composite Rate	SF Guidelines, page C-3	258 per 1,000 sq. ft.
Athletic Clubs	SF Guidelines, page C-3	25 per 1,000 sq. ft.
Cineplex Theaters[a]	SF Guidelines, page C-3	22 per 1,000 sq. ft.
Other Retail/Entertainment, including General Retail	SF Guidelines, page C-3	65 per 1,000 sq. ft.

[a] Trip rate of 1.13 per seat converted to trips per 1,000 sq. ft. based on 44 seats per 1,000 sq. ft. trips per seat (see Saturday trip rates for Movie Theater with Matinee, land use category 444), from ITE *Trip Generation*).

Notes: Rates in the guidelines were converted from total person-trips to motorized person trips using the low end of motorized mode shares listed in the SF Guidelines (Table E-11).

A.3 TIDF Trip Generation Rate Schedule

Table A.9 presents a summary trip generation rate schedule for the TIDF showing rates by economic activity category and specific rates for subcategories where applicable. See Appendix C for definitions of the types of development included in each category and subcategory.

Table A.9 TIDF Motorized Trip Generation Rates

Economic Activity Category and Subcategory	TIDF Motorized Person-Trip Generation Rate
Residential	
2+ Bedrooms	8 per dwelling unit
1 Bedroom/Studio	6 per dwelling unit
Senior Housing	4 per dwelling unit
Other Residential	7 per dwelling unit
Cultural/Institution/Education	
Day Care Center/Community Center	54 per 1,000 sq. ft.
Post-Secondary School	38 per 1,000 sq. ft.
Museum	12 per 1,000 sq. ft.
Other Cultural/Institution/Education	23 per 1,000 sq. ft.
Medical and Health Services	22 per 1,000 sq. ft.
Management, Information and Professional Services	13 per 1,000 sq. ft.
Retail/Entertainment	
Supermarket	127 per 1,000 sq. ft.
Quality Sit- Down Restaurant	86 per 1,000 sq. ft.
Fast Food Restaurant	602 per 1,000 sq. ft.
Restaurant – Composite Rate	258 per 1,000 sq. ft.
Athletic Clubs	25 per 1,000 sq. ft.
Cineplex Theaters	22 per 1,000 sq. ft.
Other Retail/Entertainment, including General Retail	65 per 1,000 sq. ft.
Visitor Services	13 per 1,000 sq. ft.
Production, Distribution, Repair	7 per 1,000 sq. ft.

Sources: Tables A.5, A.6, A.7, and A.8.

B. Appendix B: SF CHAMP Regression Analysis

This appendix describes the statistical process used to derive trip generation rates from SF CHAMP model results. The SF CHAMP model produces estimates of trips by economic activity category for each of the 981 traffic analysis zones used by the model to represent the entire city. For each zone the number of auto and transit trips by economic activity category was compared to the amount of employment (for each of the six nonresidential categories) or households (for the residential category) and then analyzed across all zones using linear regression. Linear regression is a widely accepted mathematical model used to estimate the causal relationship between one or more independent variables and one dependent variable. In this case the model estimated the total number of trips generated by a zone based on the number of workers (by economic activity category) and households in that zone. The final regression model was a 0-intercept[9] with a linear function[10]. Results are presented below in Equation 1.

Equation 1:

Automobile + transit trips in $zone_{(i)}$ =

9.6 * $Households_{(i)}$ +

5.7 * Cultural/Institution/Education $employment_{(i)}$ +

8.6 * Medical and Health Services $employment_{(i)}$ +

2.8 * Management, Information and Professional Services $employment_{(i)}$ +

9.2 * Retail/Entertainment $employment_{(i)}$ +

5.1 * Visitor Services $employment_{(i)}$ +

3.6 * Production, Distribution, Repair $employment_{(i)}$

Where: (i) refers to each of the 981 traffic analysis zones that comprise the entire city in the SF CHAMP model.

Source: San Francisco County Transportation Authority, SF CHAMP model, August 2010.

The independent variable for each economic activity category in Equation 1 (9.6 for households, 5.7 for CIE employment, etc.) represents the estimated motorized (auto and transit) person-trip generation rates for that category. Thus, the

[9] The function was constrained to pass through the origin. This formulation was chosen so that zones with no economic or residential activity would not generate trips.

[10] Alternative formulations were tested with square and cubic powers of the key variables, as well as regressions using the natural log of key variables. None of these alternatives were an improvement in the statistical fit of the linear model.

regression model estimates that households generate about 9.6 motorized person-trips per household, and CIE employment generates 5.7 person-trips per worker, etc.

The degree to which the independent variables of a linear regression model accurately predicts the same result as the model's underlying data is typically expressed in terms of the R-squared statistic. The R-squared statistic for Equation 1 measures the degree to which the independent variables (the estimated trip rates) predicts the actual number of total trips generated in an individual TAZ based on the employment and households in that TAZ. An R-squared statistic will range from zero to one, where a value of zero indicates that the equation does not match the data at all, and a value of one indicates it a perfect match. The adjusted R-squared term for Equation 1 is 0.92 indicating that the equation predicts 92 percent of the variation in trip generation across TAZs based on the employment and households in each TAZ. The 0.92 R-squared statistic indicates that Equation 1 represents a very strong statistical fit to the underlying data.

The trip rates shown in Equation 1 represent trips per household or worker. The TIDF is levied on new development projects on the basis of dwelling units (both occupied and vacant) and total building square feet (both occupied and vacant). Consequently we converted the trip generation rates estimated by the regression model in Equation 1 to rates per dwelling unit and total building square foot. The conversion factors were developed by the San Francisco Planning Department for transportation impact analysis. The conversion is shown in Table B.1.

Table B.1 SF CHAMP-Derived Trip Generation Rates

Category	Trip Rate (per household or worker)	Employment Density (sq. ft. per worker)	Trip Rate (per household or occupied 1,000 sq. ft.)	Vacancy Rate	Trip Rate (per dwelling unit or total 1,000 sq. ft.)
Residential	9.6	NA	9.6	5.0%	9.1
Cultural/Institution/ Education	5.7	350	16.3	5.0%	15.5
Medical and Health Services	8.6	350	24.6	5.0%	23.4
Management, Information and Professional Services	2.8	276	10.1	5.0%	9.6
Retail/Entertainment	9.2	350	26.3	5.0%	25.0
Visitor Services	5.1	441	11.6	5.0%	11.0
Production, Distribution, Repair	3.6	567	6.3	5.0%	6.0

Sources: Aksel Olsen, San Francisco Planning Department, memorandum to Elizabeth Sall, San Francisco County Transportation Authority regarding San Francisco Land Use Allocation, January 27, 2010, Tables 1 and 2, p. 10; Equation 1 (above).

C. Appendix C: Economic Activity Category Definitions

This appendix provides sources for definitions of the types of development included in each economic activity category and subcategory (most references are to sections of the San Francisco Planning Code):

- Economic activity categories:
  - Residential: Section 401(a)(124);
  - Management, Information and Professional Services: Section 401(a)(74);
  - Retail/Entertainment: Section 401(a)(126);
  - Production, Distribution, and Repair (PDR): Section 401(a)(112);
  - Cultural/Institution/Education: Section 401(a)(29);
  - Medical and Health Services: Section 401(a)(82); and
  - Visitor Services: Section 401(a)(146).
- Residential and Retail/Entertainment subcategories: as determined by the San Francisco Planning Department based on the Department's Traffic Impact Analysis Guidelines, October 2002, Table C-1, p. C-3.
- Cultural/Institution/Education subcategories:
  - Day Care Center: Section 401(a)(18)/Community Center: Section 401(a)(26);
  - Post-Secondary School: Section 209.3(i); and
  - Museum: as determined by the San Francisco Planning Department.

As explained in the report the Other Residential, Other Retail/Entertainment, and Other Cultural/Institution/Education subcategories are not defined in the planning code. The trip generation rates for these subcategories represent an average rate for the respective economic activity category. These subcategories are intended for development projects not represented by any other subcategory.

D. Appendix D: Net Present Value Factor

This appendix provides the detailed assumptions and methodology used to update the net present value factor used in Table 4. Table D.1 provides the inflation and interest rate assumptions used to calculate the net present value factor. Table D.2 shows the model used to calculate the factor.

Table D.1 Inflation and Interest Rates

Cost Inflation[a]

Calendar Year	Index	Annual Rate
2009	224.4	0.72%
2008	222.8	3.15%
2007	216.0	3.25%
2006	209.2	3.21%
2005	202.7	1.96%
2004	198.8	NA
Five-Year Compounded Annual Average		2.45%

Interest Earned[b]

Fiscal Year Ending	Index	Annual Rate
2009	120.0	2.57%
2008	117.0	4.30%
2007	112.2	5.19%
2006	106.6	4.20%
2005	102.3	2.33%
2004	100.0	NA
Five-Year Compounded Annual Average		3.71%

[a] San Francisco Bay Area Consumer Price Index (1982-84 = 100).

[b] Average annual interest earning on City and County of San Francisco fund balances (2004 = 100).

Sources: Association of Bay Area Governments (http://www.abag.ca.gov/planning/research/cpi); San Francisco Treasurer's Office (http://sftreasurer.org/index.aspx?page=16).

Table D.2 Net Present Value Factor

NPV	Formula	Year 1	Year 2	Year 3	Year 4	Year 43	Year 43	Year 44	Year 45
Beginning Fund Balance[a]	a	34.40	34.65	34.89	35.11	10.47	8.09	5.56	2.87
Interest Earnings[b]	b = a * 3.52%	1.28	1.29	1.29	1.30	0.39	0.30	0.21	0.11
Expenditures[c]	c = c (prior yr) * 2.45%	(1.02)	(1.05)	(1.08)	(1.10)	(2.76)	(2.83)	(2.90)	(2.97)
Ending Fund Balance	d = a + b - c	34.65	34.89	35.11	35.31	8.09	5.56	2.87	(0.00)
Net Present Value Factor[a]		34.40							

Note: This table models the amount necessary to collect in Year 1 such that $1.00 in expenditures can be sustained for 45 years given inflation and interest earnings. Years 5 through 42 are omitted.

[a] Beginning fund balance in Year 1 is solved for to calculate the Net Present Value Factor. The Year 1 value is set such that the Year 45 ending fund balance equals $0.00. In all other years the beginning fund balance equals the ending fund balance from the prior year.

[b] Assumes interest earned on beginning fund balance and all expenditures made at end of year.

[c] Expenditures at beginning of Year 1 equals $1.00 and are inflated assuming all costs represent end of year (inflated) values.

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

July 11, 2012

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

File No. 120523 [Planning Code - Transit Impact Development Fee Increase and Updates]

Small Business Commission Recommendation: **Approval with modification**

Dear Ms. Calvillo:

On June 11, 2012 the Small Business Commission held a hearing on Board of Supervisors File No. 120523 and voted 7-0 to recommend approval of the ordinance with modifications

Currently, under the Transit Impact Development Fee (TIDF), commercial spaces less than 3,000 gross square feet are not subject to the impact fee. As proposed, this ordinance will amend the TIDF to only exempt commercial spaces of less than 800 gross square feet. Additionally, a prior use credit currently applies for spaces subject to the TIDF. The prior use credit allows for reduced or waived impact fees when a prior use is considered during a previous five year period. After five years, the entire impact fee may apply. As proposed, this ordinance will amend the TIDF to tie the number of years that the prior use credit is available to existing sections of the Planning Code, which may decrease this number to three years in some situations. .

This impact fee will have a substantial impact on low to middle income revenue generating small businesses. For example, a new 2,500 foot childcare center that is considered a change of use under the ordinance (for example converting from a closed conditionally permitted restaurant) and does not qualify for a prior use credit may be subject to over $30,000 in impact fees to open their business. The same fee applies for retail, restaurants, medical and health services and several other uses. Even a PDR business of the same size may face an impact fee of $17,000 to open their business. These dollar amounts are enough to prevent a potential business from opening, leading to a missed opportunity to create jobs. This can also exasperate the issue of vacant and blighted buildings that are waiting for tenants to occupy them, which can counter the goals and objectives in the "Invest in Neighborhoods" project where economic development is a key objective. This fee may also be applied in addition to other impact fees, such as in the Eastern Neighborhoods.

The SBC recognizes that the Planning Department, Municipal Transit Authority and other stakeholders are currently working to transition the TIDF into a new "Transit Sustainability Fee" (TSF). The preference of the Commission, and primary recommendation, is to keep the above TIDF thresholds at their current levels while the TSF moves through the legislative and environmental review process. The

Commission recommends therefore, that the 3,000 square foot exemption threshold remain in effect and that the 5 year prior use credit provision continue as well. The current thresholds have minimized this impact fees affects to small businesses and without amending the ordinance, there is a risk that a number of new small businesses will be affected by the fee.

The current TSF proposal includes a small business policy credit which will, as drafted, exempt, "Businesses that occupy or expand any pre-existing commercial space, provided that: (i) the gross square footage of such commercial space is not greater than 5,000 square feet, and (ii) the business is not formula retail." Should the Board of Supervisors not accept the primary SBC recommendations above and retain the currently proposed square footage and/or prior use credit levels, then the Small Business Commission makes a secondary recommendation that this ordinance be amended to include this policy credit.

Moving forward with one of the alternatives presented above is a critical policy objective of the Small Business Commission. Returning to the example of a childcare center, the Office of Small Business's Small Business Assistance Center sees a number of clients who seek to start these businesses. Often immigrant entrepreneurs starting their first business, spending $30,000 or more on impact fees is a barrier to entry. Additionally, business owners are often not aware of impact fees in advance of signing leases and are placed with the choice of breaking a legal lease or paying the fee, which is due before occupancy. Should the square footage threshold be reduced and a policy credit program not be implemented, then there is a likelihood that this little known fee will begin to be charged to an increased number of small businesses.

The Commission recognizes that the TSF, through the policy credit program, takes steps forward to insulate small businesses from this impact fee. In its current form, this ordinance takes a step backwards. This does not make good public policy and therefore, accepting one of the above recommendations is necessary to move the current TIDF fee forwards in a way that is consistent with the proposed TSF policies.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Supervisors Wiener, Olague
Jason Elliott, Mayor's Office
Gillian Gillett, Mayor's Office
Alicia John-Baptiste, Planning Department

PUBLIC COMMENT on LUC Agenda Item 5; TIDF Increase and Updates

Mary Miles to: John Avalos, David Campos, David Chiu, Carmen Chu, Malia Cohen, Sean Elsbernd, Eric L. Mar, Christina Olague, Angela Calvillo, Mark Farrell, 09/10/2012 07:45 AM

FROM:
Mary Miles (SB #230395)
Attorney at Law
for Coalition for Adequate Review
364 Page St., #36
San Francisco, CA 94102
(415) 863-2310

TO:
San Francisco Board of Supervisors
and its Land Use Committee

DATE: September 10, 2012

RE: Land Use and Economic Development Committee, Agenda Item 5 [Planning Code - Transit Impact Development Fee Increase and Updates]; BOS File No. 120523

PUBLIC COMMENT

This is public comment on the above-described Agenda Item scheduled before the Board's Land Use Committee on September 10, 2012. Please distribute this Comment to all members of the Board and the Land Use Committee, and place a copy of this Comment in all applicable Board files.

The proposed project expands the scope and increases in fees for the TIDF ("Transit Impact Development Fee"), while eliminating existing provisions requiring accountability for this revenue and how it is spent. The proposal is part of a larger "Transportation Sustainability Program" ("TSP") which has received no environmental review, is not properly before the Land Use Committee or the Board of Supervisors, and violates the California Environmental Quality Act ("CEQA"), Pub. Res. Code secs. 21000 et seq.

The TIDF revision is described by the lead agency, City's Planning Department, as part of its "Transportation Sustainability Program," a Project under CEQA that has received no environmental review. The Planning Department has only in the past few days issued a Notice of Preparation of Environmental Impact Report on the entire Project, of which the TIDF increase is a part. (See NOP, September 5, 2012, Initial Study, September 5, 2012.)

City may not segment or sever environmental review or exempt parts of a Project from review. Further, the proposal ("the proposed Project") attempts to proceed under a categorical exemption that does not apply to this type of project, but only to rates, tolls and fares for specific uses. The

TIDF instead proposes a rate increase to fund capital projects and expansion of a system and therefore remains subject to CEQA. (14 Cal.Code Regs. [CEQA "Guidelines"] sec. 15273(b).) The proposed Project does not qualify for the claimed categorical exemption from CEQA, because it expands and increases the TIDF, and does not restrict it in use to the limitations defined in Guidelines sec. 15273.

The proposed Project must be analyzed under CEQA, because it may have significant impacts on the environment, has not been analyzed in an EIR, has not been analyzed for effectiveness in mitigating transit impacts from development, does not meet requirements of nexus and proportionality required by CEQA, the constitution, and the United States and California Supreme Courts, and does not propose mitigations for development impacts on transit that are shown to be effective with substantial evidence.

Since the purpose of the TIDF and the proposed Project is to mitigate impacts of development on transit, it must be analyzed in an EIR and its effectiveness in mitigating those impacts must be proven before the project is approved. There is no evidence that the TIDF has been effective in mitigating impacts of development, and none is in the Record.

The project's proposed revisions furthermore remove the only accountability for the "TIDF" impact mitigation fee, which results in an unaccountable windfall for MTA and other agencies without accounting for the fee revenue, how the revenue is spent, and no monitoring of impact mitigation as required.

This commenter has many times requested notice of proceedings on the above-described Project and TSP , but has received no notice of any proceeding. Consideration of the proposed part of the Project should be deferred until environmental review is completed on the entire Project, since such review may not be severed or piecemealed, and since the Project is not categorically or otherwise exempt from CEQA. The Board should therefore reject the proposed legislation and return it to the lead agency for environmental review before further consideration.

Mary Miles
Attorney at Law

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

LAND USE & ECONOMIC DEVELOPMENT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will a hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: **Monday, September 10, 2012**

Time: **1:00 p.m.**

Location: **Committee Room 263 located at City Hall**
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: **File No. 120523.** Ordinance amending the San Francisco Planning Code, Article 4, by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); 2) amending Sections 408, 411.1 through 411.5, 411.7, and 411.8 to increase TIDF rates and clarify TIDF implementation and collection; and 3) making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The Transit Impact Development Fee (TIDF) is a development fee charged on most new commercial development, in excess of 3,000 square feet, to recover costs incurred in meeting public transit service demands created by new commercial development. If the legislation passes, the TIDF will be increased to the following amounts, per gross square foot of development: Day Care/Community Center - $13.30; Post-Secondary School - $13.30; Museum - $11.05; Other Institutional - $13.30; Management, Information and Professional Services - $12.64; Medical and Health Services - $13.30; Production/Distribution/Repair - $6.80; Retail/Entertainment - $13.30; Visitor Services - $12.64. The Municipal Transportation Agency will determine the amount of the fee, and payments will be made to the Development Fee Collection Unit of the Department of Building Inspection.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco 94102. Information relating to the proposed fee is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, September 7, 2012.

for

Angela Calvillo, Clerk of the Board

DATED: August 10, 2012
PUBLISHED: August 27 & September 2, 2012

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1 DR CARLTON B GOODLETT PL #244
SAN FRANCISCO, CA 94102

EXM 2364079

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NOTICE OF PUBLIC HEARING LAND USE & ECONOMIC DEVELOPMENT COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS SEPTEMBER 10,2 012 – 1:00 PM CITY HALL, COMMITTEE ROOM 263, 1 DR.C ARLTON B.G OODLETT PL,S AN FRANCISCO,C A

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will a hold a public hearing to consider the following proposal and said public hearing will be held as follows,a tw hich time all interested parties may attend and be heard: File No. 120523. Ordinance amending the San Francisco Planning Code, Article 4, by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); 2) amending Sections 408, 411.1 through 411.5, 411.7, and 411.8 to increase TIDF rates and clarify TIDF implementation and collection; and 3) making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1. The Transit Impact Development Fee (TIDF)i s a development fee charged on most new commercial development, in excess of 3,000 square feet, to recover costs incurred in meeting public transit service demands created by new commercial development. If the legislation passes, the TIDF will be increased to the following amounts, per gross square foot of development: Day Care/Community Center - $13.30; Post-Secondary School - $13.30; Museum - $11.05; Other Institutional - $13.30; Management, Information and Professional Services - $12.64; Medical and Health Services - $13.30; Production/Distribution/Repair - $6.80; Retail/Entertainment - $13.30; Visitor Services - $12.64. The Municipal Transportation Agency will determine the amount of the fee, and payments will be made to the Development Fee Collection Unit of the Department of Building Inspection. In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco 94102.I nformation relating to the proposed fee is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday,S eptember 7,2 012. Angela Calvillo, Clerk of the Board

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 MAY 15 PM 2:14

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Mayor Edwin M. Lee
RE: Planning Code -Transit Impact Development Fee Increase and Updates
DATE: May 15, 2012

Attached for introduction to the Board of Supervisors is the ordinance amending Article 4 of the Planning Code by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); 2) amending Sections 408, 411.1 through 411.5, 411.7 and 411.8 to increase TIDF rates and clarify TIDF implementation and collection; and 3) making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Please note this item is cosponsored by Supervisors Wiener and Olague.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

cc. Supervisor Scott Wiener
Supervisor Christina Olague

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE: (415) 554-6141

120523

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: for Mayor Edwin M. Lee

RE: Substitute Ordinance File No. 120523 - Planning Code - Transit Impact Development Fee Increase and Updates

DATE: September 4, 2012

Attached for introduction to the Board of Supervisors is the ordinance amending Article 4 of the Planning Code by: 1) revising and making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); 2) amending Sections 402, 408, 411 through 411.5, 411.7 and 411.8 and adding a new Section 411.9 to increase TIDF rates, revise exemptions and credits and clarify TIDF implementation and collection; and 3) making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Please note this item is cosponsored by Supervisors Wiener and Olague.

I request that this item be calendared in Land Use and Economic Development Committee.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

RECEIVED
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1 DR. CARLTON B. GOODLETT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE (415) 554-6141

City & County of San Francisco

Transit Impact Development Fee

LAND USE COMMITTEE | SEPTEMBER 10, 2012

SAN FRANCISCO
PLANNING DEPARTMENT

Overview

- Fee to offset development impacts on transit system
- Revenue funds Muni capital and system maintenance
- Applies citywide to many non-residential uses, excepting:
  - Projects under 3,000 gsf
  - Charitably exempt projects
  - Certain land uses
- Projects provided a prior use credit if development site active within last five years

Relationship to TSP

- TIDF update ordinance and ordinance establishing the Transportation Sustainability Program (TSP) introduced together in May, 2012
- In the absence of TSP, TIDF serves as the City's mechanism to offset development impacts on the transit system
- TSP changes CEQA transportation methodology and establishes citywide transportation impact fee to mitigate development impacts by implementing comprehensive transportation system improvements
- TSP requires environmental review; on hold until late 2013
- If TSP is implemented, TIDF will no longer be collected

Need for TIDF Update

- Legally required to update underlying nexus study every five years
- Cost to address development impacts has increased since last TIDF base rate increase in 2004
- Current TIDF inconsistent with impact fee definitions, application, and administration as established in the Planning Code
- Updated TIDF provides smoother transition to TSP

TIDF Update Changes

- Expands and changes TIDF application
- Establishes *Policy Credits* program for Small Businesses, Reduced Parking developments
- Changes TIDF rates
- Clarifies the roles of Planning, DBI, and the SFMTA

Application Changes

- Lowers exemption threshold from 3,000 gsf to 800 gsf, consistent with Community Infrastructure Impact Fees
- TIDF extended to:
  - Non-profit and institutional uses
  - All PDR, including automotive services and wholesale storage of materials and equipment
  - Property beneficially owned by the City
  - Accessory uses where the primary use is exempt
- *Consistent with the Planning Commission's recommendation, provides grandfathering for most types of projects not currently subject to TIDF*

Policy Credits Program

- TIDF Update intended to be consistent with TSP
- TSP allocates 6% of projected TSF revenue to fund policy credits program for:
  - Non-formula retail small businesses occupying existing vacant space less than 5,000 gsf
  - Projects building less than maximum allowed parking
  - Affordable housing and small residential projects
- Credits allocated on first-come, first-served basis

Policy Credits Program

- *Planning Commission recommended establishing Policy Credits program under TIDF*
- TIDF Update allocates 3% of projected TIDF revenue to fund Policy Credits program for:
  - Non-formula retail small businesses occupying existing vacant space less than 5,000 gsf
  - Projects building less than the maximum allowed parking
- Credits allocated on first-come, first-served basis
- *Consistent with Planning Commission's and Small Business Commission's recommendations, projects are eligible for a 100% policy credit from the TIDF*

TIDF Rate Changes

Land Use	Current Fee	Proposed Fee	Nexus Rate
Office (MIPS)	$12.06	$12.64	$18.58
Cultural/Institution/Education	$12.06		
Day Care/Community Center	*$12.06*	$13.30	$76.71
Post-Secondary School	*$12.06*	$13.30	$54.01
Museum	*$12.06*	$11.05	$17.20
Other Institutional	*$12.06*	$13.30	$32.68
Medical and Health Services	$12.06	$13.30	$31.30
Production/Distribution/Repair	$9.65	$6.80	$9.98
Retail/Entertainment	$12.06	$13.30	$31.30 - $854.50
Visitor Services	$9.65	$12.64	$18.58

Annual Projected Revenue

Land Use	Annual Projected Revenue		$$	Percent
	Current	Proposed	Change	Change
Office (MIPS)	$8,140,500	$8,532,000	$391,500	4.81%
Cultural/Institution/Education	$3,497,400	$3,857,000	$359,600	10.28%
Medical and Health Services	$2,110,500	$2,327,500	$217,000	10.28%
Production/Distribution/Repair	$2,895,000	$2,040,000	($855,000)	-29.53%
Retail/Entertainment	$6,331,500	$6,982,500	$651,000	10.28%
Visitor Services	$723,750	$948,000	$224,250	30.98%
Total	*$23,698,650*	*$24,687,000*	*$988,350*	*4.17%*

550

Role-Clarifying Changes

- Clarifies roles of SMTA, Planning, and DBI in TIDF assessment, collection, and enforcement
  - For projects issued permits after July 2010, Planning assesses and DBI collects and enforces
  - For projects issued permits before July 2010
    - Where no certificate of occupancy issued, SFMTA assesses and DBI collects and enforces
    - Where certificate of occupancy issued, SFMTA assess, collects, and enforces
- Ties TIDF updates to provisions of Planning Code Section 410

QUESTIONS

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

September 13, 2012

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

REVISED RESPONSE File No. 120523 [Planning Code - Transit Impact Development Fee Increase and Updates]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On June 11, 2012 the Small Business Commission (SBC) held a hearing on Board of Supervisors File No. 120523 and voted 7-0 to recommend approval of the ordinance with modifications, which are detailed in our response dated July 17, 2012.

Since this hearing, the ordinance has been amended to include several of the recommendations made by the Commission. These recommendations, which were supported by the Planning Commission, included implementing a "Small Business Policy Credit" program, along with keeping the prior use credit timeframe at five years.

I have reviewed the revised ordinance and have determined that, as amended, it meets the guidance and parameters that the Small Business Commission provided at the June 11, 2012 hearing. Therefore, the Commission now recommends approval of the ordinance as currently drafted.

As stated in our original response, impact fees have the potential to pose a serious barrier to entry entrepreneurs who wish to open up businesses in the City. Proper consideration must be taken to adopt these policies in such a way that limits the affects to small business entrepreneurs while also meeting the policy objectives of the City. The process undertaken and final product of this revision to the TIDF exemplifies this policy goal and Mayor Lee, co-sponsoring Supervisors Wiener and Olague, along with the Planning Department, MTA, and CTA are to be commended.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Supervisors Wiener, Olague
Jason Elliott, Mayor's Office
Gillian Gillett, Mayor's Office
Alicia John-Baptiste, Planning Department