

1 [Planning Code - Downtown Rail Extension Fee Waiver]

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3 **Ordinance amending the Planning Code to conditionally waive certain fees for projects**  
4 **along the corridor of the Downtown Rail Extension; affirming the Planning**  
5 **Department's determination under the California Environmental Quality Act; making**  
6 **findings of consistency with the General Plan, and the eight priority policies of**  
7 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**  
8 **and welfare pursuant to Planning Code, Section 302.**

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

13

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

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16 Section 1. Environmental and Land Use Findings.

17 (a) The Planning Department has determined that the actions contemplated in this  
18 ordinance comply with the California Environmental Quality Act (California Public Resources  
19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
20 Supervisors in File No. 231164 and is incorporated herein by reference. The Board affirms  
21 this determination.

22 (b) On December 14, 2023, the Planning Commission, in Resolution No. 21470,  
23 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
24 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
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1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
2 the Board of Supervisors in File No. 231164, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code  
4 amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
5 in Planning Commission Resolution No. 21470, and the Board incorporates such reasons  
6 herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
7 Supervisors in File No. 231164.

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9 Section 2. Background and Findings Regarding the Downtown Rail Extension.

10 (a) The San Francisco Downtown Rail Extension project, which is now referred to as  
11 the Portal, has been a regional priority since 1988 and will extend Caltrain's regional rail  
12 system by approximately 1.6 miles, from the current station at Fourth and Townsend Streets  
13 to the Salesforce Transit Center at First and Fremont streets, bringing Caltrain and California  
14 High Speed Rail into downtown San Francisco. The Portal will provide significantly improved  
15 access for Peninsula riders to San Francisco, and vice versa, as well as service travelers on  
16 the State's future high-speed rail system.

17 (b) The Portal is the second phase of the Transbay Program, which was developed to  
18 reshape an area of San Francisco's downtown and financial core by (1) improving public  
19 access to bus and rail services, (2) modernizing the Transbay Terminal and improving  
20 service, (3) reducing non-transit vehicle usage, and (4) alleviating blight and revitalizing the  
21 Transbay Terminal area of downtown San Francisco.

22 (c) The Transbay Joint Powers Authority ("TJPA") is responsible for the construction of  
23 the Portal. Construction of the Portal is expected to commence in 2025 with the Portal ready  
24 for service by 2031.

1 (d) The Portal’s route will be primarily below grade and utilize a constructed  
2 subsurface rail tunnel (“Tunnel”) that runs, in part, underneath Townsend Street between  
3 Third Street and Sixth Street. The Tunnel structure is proposed to sit at an approximate depth  
4 of 14 feet to 64 feet below grade underneath Townsend, and be approximately 50 feet in  
5 height.

6 (e) The Transportation Sustainability Fee (Planning Code Sections 411A et seq.)  
7 supports the implementation of infrastructure to meet the increased demand on City and  
8 regional transit systems generated by new development. The Eastern Neighborhoods  
9 Infrastructure Impact Fee (Planning Code Sections 423 et seq.) supports the improvement of  
10 community infrastructure, including transit and transportation, to offset the demand generated  
11 by new development in the Eastern Neighborhoods Area Plan.

12 (f) For new projects where the foundation and shoring systems would otherwise  
13 encroach into the path of the Portal, it is reasonable and in the public interest to offset a  
14 portion of these fees if those projects implement an enhanced foundation that meets the  
15 demands and needs of the Portal, and avoids the need for additional structural measures  
16 within the Portal project.

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18 Section 3. Article 4 of the Planning Code is hereby amended by revising Section 406,  
19 to add subsection (i) following subsection (h), to read as follows:

20 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**  
21 **PROJECT REQUIREMENTS.**

22 \* \* \* \*

23 (i) Conditional Waiver or Reduction of Fees for Central SoMa Plan Area Projects Impacted  
24 by the Downtown Rail Extension. A development project that enters into an agreement with the  
25 Transbay Joint Powers Authority to construct foundation and shoring systems that will reduce the

1 lateral force from the project onto the tunnel and not encroach on the tunnel alignment required for the  
2 Downtown Rail Extension, which agreement is to the satisfaction of the Department of Building  
3 Inspection, and submits a building or site permit application that includes the agreed-upon foundation  
4 and shoring systems, may be eligible for a conditional waiver of the Transportation Sustainability Fee  
5 (Sections 411A et seq.) and the Eastern Neighborhoods Infrastructure Impact Fee (Sections 423 et  
6 seq.), as set forth in this subsection (i). As part of the approval process for such a project, the Planning  
7 Commission may conditionally approve waiver of all or a portion of the Transportation Sustainability  
8 Fee and of the Eastern Neighborhoods Infrastructure Impact Fee, provided that such waiver is  
9 conditioned on the satisfaction of the actions in the preceding sentence. If the final approved building  
10 permit or site permit foundation addendum includes the agreed-upon foundation and shoring systems,  
11 the project shall receive a waiver of those fees in an amount commensurate with the net increase in cost  
12 of the agreed-upon foundation and shoring system as compared to a baseline foundation system, as  
13 calculated by the Planning Department. If the final approved building permit or site permit foundation  
14 addendum does not include the agreed upon foundation and shoring systems, the City shall withhold  
15 issuance of the first certificate of occupancy until the conditionally waived fees are paid.

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17 Section 4. Effective Date. This ordinance shall become effective 30 days after  
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
20 of Supervisors overrides the Mayor's veto of the ordinance.

21 APPROVED AS TO FORM:  
22 DAVID CHIU, City Attorney

23 By:                   /s/ Austin Yang                    
24       AUSTIN M. YANG  
25       Deputy City Attorney

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