

1 [Planning Code - Jobs Housing Linkage Fee and Inclusionary Housing]

2

3 **Ordinance amending the Planning Code to modify the Jobs Housing Linkage Fee**
4 **by ~~allowing~~ clarifying the indexing of the fee, adding options for complying with**
5 **the fee, phasing increases to the fee requiring payment of the fee no later than at**
6 **~~the time of first certificate of occupancy~~, dedicating funds for permanent**
7 **supportive housing and the preservation and acquisition of affordable housing,**
8 **requiring periodic evaluation of the nexus study and fee, and to remove the**
9 **monetary limit for the Small Sites Funds under the Inclusionary Housing**
10 **Program; affirming the Planning Department’s determination under the California**
11 **Environmental Quality Act; making findings of consistency with the General Plan,**
12 **and the eight priority policies of Planning Code, Section 101.1; and making**
13 **findings of public necessity, convenience, and welfare pursuant to Planning**
14 **Code, Section 302.**

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

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

23

24 Section 1. Environmental and Land Use Findings.

25 (a) The Planning Department has determined that the actions contemplated in
this ordinance comply with the California Environmental Quality Act (California Public
Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of

1 the Board of Supervisors in File No. 190548 and is incorporated herein by reference.

2 The Board affirms this determination.

3 (b) On September 19, 2019, the Planning Commission, in Resolution No. 20522,
4 adopted findings that the actions contemplated in this ordinance are consistent, on
5 balance, with the City's General Plan and eight priority policies of Planning Code
6 Section 101.1. The Board adopts these findings as its own. A copy of said Resolution
7 is on file with the Clerk of the Board of Supervisors in File No. 190548, and is
8 incorporated herein by reference.

9 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning
10 Code amendment will serve the public necessity, convenience, and welfare for the
11 reasons set forth in Planning Commission Resolution No. 20522, and the Board
12 incorporates such reasons herein by reference.

13 (d) The Jobs Housing Nexus Analysis, in Board File No. 190548 concluded that
14 all new Office, Laboratory, Retail, Entertainment, Hotel, Production Distribution and
15 Repair, Medical and Institutional land uses in San Francisco will generate an increased
16 demand for affordable housing. The Nexus Study establishes a maximum level of
17 affordable unit demand to be mitigated by the Jobs-Housing Linkage Fee Program for
18 each of the eight building types. The Board finds that it is in the public interest to
19 assess fees for smaller Office uses (up to 49,999 gross square feet) at a lower rate due
20 to the feasibility and financing for such smaller Office uses.

21
22 Section 2. Article 4 of the Planning Code is hereby amended by revising
23 Sections 249.78, 329, 409, 413.1, 413.4, 413.6, 413.7, 413.8, 413.9, 413.10, 413.11,
24 ~~and 415.5, and 424.4,~~ and deleting Section 413.5, to read as follows:

25 **SEC. 249.78. CENTRAL SOMA SPECIAL USE DISTRICT.**

1 (e) **Community Development Controls.**

2 * * * *

3 (2) **Land Dedication.**

4 (A) Residential projects in this SUD may opt to fulfill the
5 Inclusionary Housing requirement of Section 415 through the Land Dedication
6 alternative contained in Section 419.6.

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8 ///

9 (B) Non-Residential projects in this Special Use District
10 may opt to fulfill their Jobs-Housing Linkage Fee requirement of Section 413 through the
11 Land Dedication alternative contained in Section 413.67.

12 * * * *

13 **SEC. 329. LARGE PROJECT AUTHORIZATION IN EASTERN**
14 **NEIGHBORHOODS MIXED USE DISTRICTS.**

15 * * * *

16 (e) **Exceptions for Key Sites in Central SoMa.**

17 * * * *

18 (3) **Controls.** Pursuant to this Section 329(e) and the Key Site
19 Guidelines adopted as part of the Central SoMa Area Plan, the Planning Commission
20 may grant exceptions to the provisions of this Code as set forth in subsection (d) above
21 and may also grant the exceptions listed below for projects that provide qualified
22 amenities in excess of what is required by the Code.

23 (A) **Qualified Amenities.** Qualified additional amenities
24 that may be provided by these Key Sites include: affordable housing beyond what is
25 required under Section 415 *et seq.*; land dedication pursuant to Section 413.67 by non-

1 residential projects for construction of affordable housing in partial or full satisfaction of
2 the Jobs-Housing linkage Fee, or in excess of that required to satisfy the Jobs-Housing
3 linkage Fee, provided that if the land dedication is in partial satisfaction of that Fee, the
4 balance of the Fee shall be paid with the land value calculated as set forth in Section
5 413.~~67~~; land dedication pursuant to Section 413.~~67~~ by residential projects for
6 construction of affordable housing in partial or full satisfaction of the Alternatives to the
7 Inclusionary Housing Fee, or in excess of that required to satisfy the Alternatives to the
8 Inclusionary Housing Fee, pursuant to Section 419.5, to the extent permitted by state
9 law, provided that if the land dedication is in partial satisfaction of that Fee, the balance
10 of the Fee shall be paid with the land value calculated as set forth in Section 413.~~67~~;
11 PDR at a greater amount and/or lower rent than is otherwise required under Sections
12 202.8 or 249.78(c)(5); public parks, recreation centers, or plazas; and improved
13 pedestrian networks.

14 **SEC. 409. CITYWIDE DEVELOPMENT FEE REPORTING REQUIREMENTS**
15 **AND COST INFLATION FEE ADJUSTMENTS.**

16 (a) **Citywide Development Fee and Development Impact**
17 **Requirements Report.** In coordination with the Development Fee Collection Unit at DBI
18 and the Director of Planning, the Controller shall issue a report within 180 days after the
19 end of each even-numbered fiscal year that provides information on all development
20 fees established in the Planning Code collected during the prior two fiscal years
21 organized by development fee account and all cumulative monies collected over the life
22 of each development fee account, as well as all monies expended. The report shall
23 include: (1) a description of the type of fee in each account or fund; (2) the beginning
24 and ending balance of the accounts or funds including any bond funds held by an
25 outside trustee; (3) the amount of fees collected and interest earned; (4) an

1 identification of each public improvement on which fees or bond funds were expended
2 and amount of each expenditure; (5) an identification of the approximate date by which
3 the construction of public improvements will commence; (6) a description of any inter-
4 fund transfer or loan and the public improvement on which the transferred funds will be
5 expended; and (7) the amount of refunds made and any allocations of unexpended fees
6 that are not refunded. The report shall also provide information on the number of
7 projects that elected to satisfy development impact requirements through the provision
8 of "in-kind" physical improvements, including on-site and off-site BMR units, instead of
9 paying development fees. The report shall also include any annual reporting information
10 otherwise required pursuant to the California Mitigation Fee Act, California Government
11 Code Sections 66001 *et seq.* The report shall be presented by the Director of Planning to
12 the Planning Commission and to the Land Use & ~~Economic Development~~ Transportation
13 Committee of the Board of Supervisors. The ~~R~~report shall also contain information on
14 the Controller's annual construction cost inflation adjustments to development fees
15 described in subsection (b) below, as well as information on MOHCD's separate
16 adjustment of the ~~Jobs Housing Linkage and~~ Inclusionary Affordable Housing ~~f~~Fees
17 described in ~~Sections 413.6(b) and~~ 415.5(b)(3).

18 (b) **Annual Development Fee Infrastructure Construction Cost**
19 **Inflation Adjustments.** Prior to issuance of the Citywide Development Fee and
20 Development Impact Requirements Report referenced in subsection (a) above, the
21 Controller shall review the amount of each development fee established in the ~~San~~
22 ~~Francisco~~ Planning Code and, with the exception of the ~~Jobs Housing Linkage Fee in~~
23 ~~Section 413 et seq. and the~~ Inclusionary Affordable Housing Fee in Section 415 *et seq.*,
24 shall adjust the dollar amount of any development fee on an annual basis every January
25 1 based solely on the Annual Infrastructure Construction Cost Inflation Estimate. The

1 Office of the City Administrator's Capital Planning Group shall publish the Annual
2 Infrastructure Construction Cost Inflation Estimate, as published by the Office of the City
3 Administrator's Capital Planning Group and approved by the City's Capital Planning
4 Committee, no later than November 1 every year, without further action by the Board of
5 Supervisors. The Annual Infrastructure Construction Cost Inflation Estimate shall be
6 updated ~~by the Capital Planning Group on an annual basis and~~ no later than November 1
7 every year, ~~in consultation with the Capital Planning Committee,~~ in order to establish a
8 reasonable estimate of construction cost inflation for the next calendar year for a mix of
9 public infrastructure and facilities in San Francisco. The Capital Planning Group may
10 rely on past construction cost inflation data, market trends, and a variety of national,
11 state, and local commercial and institutional construction cost inflation indices in
12 developing ~~their~~ its annual estimates for San Francisco. The Planning Department and
13 the Development Fee Collection Unit at DBI shall provide notice of the Controller's
14 development fee adjustments, including the Annual Infrastructure Construction Cost
15 Inflation Estimate formula used to calculate the adjustment, and MOHCD's separate
16 adjustment of the ~~Jobs Housing Linkage and~~ Inclusionary Affordable Housing Fees on the
17 Planning Department and DBI website, and to any interested party who has requested
18 such notice at least 30 days prior to the adjustment taking effect each January 1. The
19 ~~Jobs Housing Linkage Fee and the~~ Inclusionary Affordable Housing ~~f~~ Fees shall be adjusted
20 under the procedures established in Sections ~~413.6(b) and~~ 415.5(b)(3).

21 **SEC. 413.1. FINDINGS.**

22 The Board hereby finds and declares as follows:

23 A. (a) Large-scale entertainment, hotel, office, ~~laboratory research and development,~~
24 and retail developments in the City ~~and County of San Francisco~~ have attracted and
25 continue to attract additional employees to the City, and there is a causal connection

1 between such developments and the need for additional housing in the City, particularly
2 housing affordable to households of lower and moderate income. Such commercial
3 uses in the City benefit from the availability of housing close by for their employees.
4 However, the supply of housing units in the City has not kept pace with the demand for
5 housing created by these new employees. Due to this shortage of housing, employers
6 will have difficulty in securing a labor force, and employees, unable to find decent and
7 affordable housing, will be forced to commute long distances, having a negative impact
8 on quality of life, limited energy resources, air quality, social equity, and already
9 overcrowded highways and public transport.

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

1 ~~C.(c) The City has consistently set housing production goals to address the regional~~
2 ~~and citywide forecasts for population, households, and employment. Although San Francisco has~~
3 ~~seen increased housing production each successive decade since the 1970s, the City has not been~~
4 ~~able to close the gap between its housing production goals and actual production. As~~
5 ~~demonstrated in the "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates,~~
6 ~~Inc. in June 1997, construction of new housing units in the City decreased to a low of 288 units~~
7 ~~in 1993 compared to an average annual production of 1,330 units during the years 1980 through~~
8 ~~1995. Overall housing production in the City should average approximately 2,200 units a year to~~
9 ~~keep up with the City's share of regional housing demand.~~

10 ~~D.(d) There is a continuing shortage of low- and moderate-income housing in~~
11 ~~San Francisco. Affordable housing production in the City averaged approximately 340 units~~
12 ~~per year during the years 1980 through 1995. However, the demand for new affordable housing~~
13 ~~will be approximately 1,300 units per year for the years 2000 through 2015.~~

14 ~~E. — Objective 1, Policy 7 of the Residence Element of the San Francisco~~
15 ~~General Plan calls for the provision of additional housing to accommodate the demands of new~~
16 ~~residents attracted to the City by expanding employment opportunities caused by the growth of~~
17 ~~large-scale commercial activities in the City. Such development projects should assist in meeting~~
18 ~~the City's housing needs by contributing to the provision of housing.~~

19 ~~F. — It is desirable to impose the cost of the increased burden of~~
20 ~~providing housing necessitated by large-scale commercial development projects directly~~
21 ~~upon the sponsors of the development projects by requiring that the project sponsors~~
22 ~~contribute land or money to a housing developer or pay a fee to the City to subsidize~~
23 ~~housing development as a condition of the privilege of development and to assist the~~
24 ~~community in solving those of its housing problems generated by the development.~~

1 G. — ~~The required housing exaction shall be based upon formulas derived in~~
2 ~~the report entitled "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc.~~
3 ~~in June 1997. The "Jobs Housing Nexus Analysis" demonstrates the validity of the nexus between~~
4 ~~new, large scale entertainment, hotel, office, research and development, and retail development~~
5 ~~and the increased demand for housing in the City, and the numerical relationship between such~~
6 ~~development projects and the formulas for provision of housing set forth in Section 413.1 et seq.~~

7 H. — ~~In lieu fees for new office construction to the City's Office Affordable~~
8 ~~Housing Production Program, were last increased in 1994 to \$7.05 per square foot, based on the~~
9 ~~"Analysis of the OAHPP Formula prepared by the Department of City Planning in November~~
10 ~~1994." Existing law provides for potential increases to such fees up to 20% annually based on~~
11 ~~increases to the Average Area Purchase Price Safe Harbor Limitations for New Single Family~~
12 ~~Residences for the San Francisco Primary Metropolitan Statistical Area ("PMSA") published by~~
13 ~~the Internal Revenue Service.~~

14 I. — ~~The Internal Revenue Service last published its Average Area Purchase~~
15 ~~Price Safe Harbor Limitations for New Single Family Residences for the San Francisco PMSA~~
16 ~~in 1994. In 1998 and again in 2000, the City contracted for an analysis of average area purchase~~
17 ~~price for the San Francisco PMSA, in lieu of IRS publication of the index. The 2000 report~~
18 ~~prepared by Vernazza Wolfe Associates for mortgage purposes, which was certified by Orrick,~~
19 ~~Herrington & Sutcliffe, indicates that the 1999 updated purchase price figures for new~~
20 ~~construction are \$431,568, a 73.3% increase over the 1994 purchase price of \$248,969.~~

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

1 ~~K.(e)~~ Since preparation of the Keyser Marston "Jobs Housing Nexus Analysis," the The
2 Bay Area has seen dramatic increases in land acquisition costs for housing, the cost of
3 new housing development and the affordability gap for low to moderate income workers
4 seeking housing. Commute patterns for the region have also changed, with more
5 workers who work outside of San Francisco seeking to live in the City, thus increasing
6 demand for housing and decreasing housing availability.

7 (f) As the regional job center, San Francisco has historically had the highest ratio of
8 jobs-to-housing units in the Bay Area.

9 (g) The required housing exaction shall be based upon formulas derived in a periodic
10 jobs housing nexus analysis. Consistent with the requirements of the California Mitigation Fee
11 Act, the jobs housing nexus analysis shall demonstrate the validity of the nexus between new,
12 large scale entertainment, hotel, office, laboratory, and retail development and the increased
13 demand for housing in the City, and the numerical relationship between such development
14 projects and the formulas for the provision of housing set forth in Section 413.1 et seq.

15 (h) The Board of Supervisors has reviewed the Jobs Housing Nexus Analysis
16 prepared by Keyser Marsten Associates, Inc., dated May 2019, which is on file with the Clerk of
17 the Board in Board File No. 190548, and adopts the findings and conclusions of that study, and
18 incorporates the findings by reference herein to support the imposition of the fees under Section
19 413.1 et seq.

20 ~~L. Because the shortage of affordable housing created by large scale~~
21 ~~commercial development in the City can be expected to continue for many years, it is necessary~~
22 ~~to maintain the affordability of the housing units constructed by developers of such projects~~
23 ~~under this program. In order to maintain the long term affordability of such housing, the City is~~
24 ~~authorized to enforce affordability requirements through mechanisms such as shared~~
25

1 ~~appreciation mortgages, deed restrictions, enforcement instruments, and rights of first refusal~~
2 ~~exercisable by the City at the time of resale of housing units built under the program.~~

3 ~~M. — Objective 8, Policy 2 of the Residence Element of the San Francisco~~
4 ~~General Plan encourages the Commission to periodically reassess requirements placed on~~
5 ~~large scale commercial development under the Office Affordable Housing Production Program~~
6 ~~("OAHPP"), predecessor to the Jobs Housing Linkage Program.~~

7 **SEC. 413.4. IMPOSITION OF HOUSING REQUIREMENT.**

8 * * * *

9 (c) **Sponsor's Choice to Fulfill Requirements.** Prior to issuance of a
10 building or site permit for a development project subject to the requirements of Section
11 413.1 *et seq.*, the sponsor shall elect one of the ~~three~~ options listed below to fulfill any
12 requirements imposed as a condition of approval and notify the Department of their
13 choice of the following:

14 (1) Contribute land of value at least equivalent to the in-lieu fee,
15 according to the formulas set forth in Section 413.1 et seq., to MOHCD pursuant to Section
16 413.67; or ~~Contribute of a sum or land of value at least equivalent to the in-lieu fee, according~~
17 ~~to the formulas set forth in Section 413.1, to one or more housing developers who will use the~~
18 ~~funds or land to construct housing units pursuant to Section 413.5; or~~

19 (2) Pay an in-lieu fee to the Development Fee Collection Unit at
20 DBI according to the formula set forth in Section 413.56; or

21 (3) Combine the above options pursuant to Section 413.78.

22 * * * *

23 ~~**SEC. 413.5. COMPLIANCE BY PAYMENT TO HOUSING DEVELOPER.**~~

24 ~~(a) With the written approval of the Director of MOH, the project sponsor may elect to~~
25 ~~pay a sum or contribute land of value at least equivalent to the in-lieu fee to one or more housing~~

1 *developers to meet the requirements of Section 413.1et seq. If the sponsor elects this option and*
 2 *the Director of MOH approves it, the housing developer or developers shall be required to*
 3 *construct at least the number of housing units determined by the following formulas for each*
 4 *type of space proposed as part of the development project and subject to Section 413.1et seq.:*

5 6 7 8	<i>Net Addition Gross Sq. Ft.</i> <i>Entertainment Space</i>	<i>× .000140 = Housing Units</i>
9 10 11 12	<i>Net Addition Gross Sq. Ft.</i> <i>Hotel Space</i>	<i>× .000110 = Housing Units</i>
13 14	<i>Net Addition Gross Sq. Ft.</i> <i>Office Space</i>	<i>× .000270 = Housing Units</i>
	<i>Net Addition Gross Sq. Ft.</i> <i>R&D Space</i>	<i>× .000200 = Housing Units</i>
	<i>Net Addition Gross Sq. Ft.</i> <i>Retail Space</i>	<i>× .000140 = Housing Units</i>

15 *The housing units required to be constructed under the above formula must be affordable*
 16 *to qualifying households continuously for 50 years. If the sponsor elects to contribute to more*
 17 *than one distinct housing development under this Section, the sponsor shall not receive credit for*
 18 *its monetary contribution to any one development in excess of the amount of the in lieu fee, as*
 19 *adjusted under Section 413.6, multiplied by the number of units in such housing development.*

20 *(b) Prior to the issuance by DBI of the first site or building permit for a development*
 21 *project subject to Section 413.1et seq. the sponsor shall submit to the Department, with a copy to*
 22 *MOH:*

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

1 ~~requirement that the housing units constructed will be affordable to qualifying households for 50~~
2 ~~years; and~~

3 ~~———— (2) A certification that the sponsor has made a binding commitment to contribute~~
4 ~~an amount of money or land of value at least equivalent to the amount of the in lieu fee that~~
5 ~~would otherwise be required under Section 413.6 to one or more housing developers and that the~~
6 ~~housing developer or developers shall use such funds or lands to develop the housing subject to~~
7 ~~this Section.~~

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

13 ~~If the sponsor fails to comply with these requirements within one year of the final~~
14 ~~determination or revised final determination, it shall be deemed to have elected to pay the in lieu~~
15 ~~fee under Section 413.6, and any deferral surcharge, in order to comply with Section 413.1 et~~
16 ~~seq. In the event that the sponsor fails to pay the in lieu fee within the time required by Section~~
17 ~~413.6, DBI shall deny any and all site or building permits or certificates of occupancy for the~~
18 ~~development project until the such payment has been made or land contributed, and the~~
19 ~~Development Fee Collection Unit at DBI shall immediately initiate lien proceedings against the~~
20 ~~sponsor's property pursuant to Section 408 of this Article and Section 107A.13 of the San~~
21 ~~Francisco Building Code to recover the fee.~~

22 ~~(c) Within 30 days after the sponsor has submitted a written housing development~~
23 ~~project plan and, if necessary, an appraisal to the Department and MOH under Subsection(b) of~~
24 ~~this Section, the Department shall notify the sponsor in writing of its initial determination as to~~
25 ~~whether the plan and appraisal are in compliance with this Section, publish the initial~~

1 ~~determination in the next Commission calendar, and cause a public notice to be published in an~~
2 ~~official newspaper of general circulation stating that such housing development plan has been~~
3 ~~received and stating the Department's initial determination. In making the initial determination~~
4 ~~for an application where the sponsor elects to contribute land to a housing developer, the~~
5 ~~Department shall consult with the Director of Property and include within its initial~~
6 ~~determination a finding as to the fair market value of the land proposed for contribution to a~~
7 ~~housing developer. Within 10 days after such written notification and published notice, the~~
8 ~~sponsor or any other person may request a hearing before the Commission to contest such initial~~
9 ~~determination. If the Department receives no request for a hearing within such 10 day period,~~
10 ~~the determination of the Department shall become a final determination. Upon receipt of any~~
11 ~~timely request for hearing, the Department shall schedule a hearing before the Commission~~
12 ~~within 30 days. The scope of the hearing shall be limited to the compliance of the housing~~
13 ~~development plan and appraisal with this Section, and shall not include a challenge to the~~
14 ~~amount of the housing requirement imposed on the development project by the Department or~~
15 ~~the Commission. At the hearing, the Commission may either make such revisions to the~~
16 ~~Department's initial determination as it may deem just, or confirm the Department's initial~~
17 ~~determination. The Commission's determination shall then become a final determination, and the~~
18 ~~Department shall provide written notice of the final determination to the sponsor, MOH, and to~~
19 ~~any person who timely requested a hearing of the Department's determination. The Department~~
20 ~~shall also provide written notice to MOH that the housing units to be constructed pursuant to~~
21 ~~such plan are subject to Section 413.1 et seq.~~

22 ~~(d) Prior to the issuance by DBI of the first construction document for a development~~
23 ~~project subject to this Section, the sponsor must:~~

24
25

1 ~~———— (1) Provide written evidence to the Department that it has paid in full the sum or~~
2 ~~transferred title of the land required by Subsection (a) of this Section to one or more housing~~
3 ~~developers;~~

4 ~~———— (2) Notify the Department that construction of the housing units has commenced,~~
5 ~~evidenced by:~~

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

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

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

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

14 ~~———— (3) Provide evidence satisfactory to the Department that the units required to be~~
15 ~~constructed will be affordable to qualifying households for 50 years through an enforcement~~
16 ~~mechanism approved by the Department pursuant to Subsections (b) through (d) of this Section.~~

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

21 ~~———— (1) The conditions of (1) through (3) of Subsection (d) of this Section have been~~
22 ~~met; and~~

23 ~~———— (2) A mechanism has been approved by the Director to enforce the requirement~~
24 ~~that the housing units constructed will be affordable to qualifying households continuously for~~
25 ~~50 years.~~

Office (<u>50,000 gsf and above</u>)	\$19.96 69.60 <u>See subsection (c) below.</u>
<u>Office (up to 49,999 gsf)</u>	<u>See subsection (d) below.</u>
PDR	\$0.00
<u>Laboratory</u> Research & Development	\$13.30 46.43 <u>See subsection (ed) below.</u>
Residential	\$0.00
Retail	\$18.62
Small Enterprise Workspace	\$15.69

TABLE 413.56B

FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE

Previous Use	New Use	Fee per Gross Square Foot
Entertainment, Hotel, Integrated PDR, Office, Laboratory <u>Research & Development</u> , Retail, or Small Enterprise Workspace	Entertainment, Hotel, Integrated PDR, Office, Retail, or Small Enterprise Workspace	\$0.00
PDR which received its First Certificate of Occupancy on or before April 1, 2010	Entertainment, Hotel, Integrated PDR, Office, Laboratory <u>Research & Development</u> , Retail, or	Use Fee from Table 413.56A minus \$14.09

1		Small Enterprise Workspace	
2			
3	Institutional which received	Entertainment, Hotel,	
4	its First Certificate of	Integrated PDR , Office,	
5	Occupancy on or before	Laboratory Research &	\$0.00
6	April 1, 2010	Development , Retail, or	
7		Small Enterprise	
8		Workspace	
9	Institutional or PDR which	Institutional, PDR,	
10	received its First Certificate	Laboratory Research &	\$0.00
11	of Occupancy on or before	Development , Residential	
12	April 1, 2010		
13	Institutional or PDR which		
14	received its First Certificate	Any	Use Fee from Table 413.56
15	of Occupancy after April 1,		
16	2010		
17		Entertainment, Hotel,	
18		Integrated PDR , Office,	
19	Residential	PDR, Laboratory Research &	Use Fee from Table 413.56
20		Development , Retail, or	
21		Small Enterprise	
22		Workspace	

23 *No later than January 1 of each year, MOHCD shall adjust the in lieu fee payment*
24 *option. No later than November 1 of each year, MOHCD shall provide the Planning*
25 *Department, DBI, and the Controller with information on the adjustment to the in lieu fee*

1 ~~payment option so that it can be included in the Planning Department's and DBI's website notice~~
2 ~~of the fee adjustments and the Controller's Citywide Development Fee and Development Impact~~
3 ~~Requirements Report described in Section 409(a). MOHCD is authorized to develop an~~
4 ~~appropriate methodology for indexing the fee, based on adjustments in the costs of constructing~~
5 ~~housing and in the price of housing in San Francisco consistent with the indexing for the~~
6 ~~Residential Inclusionary Affordable Housing Program in lieu fee set out in Section 415.6. The~~
7 ~~method of indexing shall be published in the Procedures Manual for the Residential Inclusionary~~
8 ~~Affordable Housing Program. In making a determination as to the amount of the fee to be paid,~~
9 ~~the Department shall credit to the sponsor any excess Interim Guideline credits or excess credits~~
10 ~~which the sponsor elects to apply against its housing requirement.~~

11 (be) Any in-lieu fee required under this Section 413.56 is due and
12 payable to the Development Fee Collection Unit at DBI at the time of and in no event
13 later than issuance of the first construction document, with an option for the project
14 sponsor to defer payment to prior to issuance of the first certificate of occupancy upon
15 agreeing to pay a deferral surcharge that would be deposited into the Citywide
16 Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco
17 Building Code.

18 (c) **Office Fees for Large Capital Projects.** Notwithstanding any other
19 provision of this Code, fees for the net addition of 50,000 gross square feet and above of
20 Office Use shall be paid as follows:

21 (1) F~~for~~ any project that (1) received an approval from the Planning
22 Commission or Planning Department on or before ~~December 31~~ September 10, 2019, stating
23 that the project shall be subject to any new, changed, or increased Jobs Housing Linkage Fee
24 adopted prior to that project's procurement of a Certificate of Occupancy or Final Completion,
25 and (2) has not procured a Certificate of Occupancy or Final Completion as of the effective date

1 of the ordinance in Board File No. 190548, amending this Section 413.56, such project shall pay
2 \$57.14 per gross square foot, and pay the difference between the amount of the fees assessed
3 at the time of site permit issuance and any additional amounts due under the new, changed, or
4 increased fee up to \$52.20 before the City may issue a Certificate of Occupancy or Final
5 Completion.

6 (2) For any project that has submitted a complete Preliminary
7 Project Assessment environmental evaluation application on or before September 10,
8 2019, and has not had received its building or site permit issued as of the effective date
9 of this ordinance in Board File No. 190548, such project, regardless of when it
10 submitted its complete Development Application, shall pay \$52.2057.14 per gross
11 square foot. Any fees shall be assessed and paid consistent with this Article 4.

12 (3) For any project that has submitted a complete environmental
13 evaluation Development aApplication between the dates of September 11, 2019, and
14 January 1, 20212, and has not had received its building or site permit issued as of the
15 effective date of this ordinance in Board File No. 190548, such project shall pay
16 \$60.9063.37 per gross square foot. Any fees shall be assessed and paid consistent
17 with this Article 4.

18 (4) For any project that has submitted a complete environmental
19 evaluation Development aApplication after January 1, 20212, shall pay \$69.60 per gross
20 square foot. Any fees shall be assessed and paid consistent with this Article 4.

21 (d) Office Fees for Small Capital Projects. Notwithstanding any
22 other provision of this Code, fees for the net addition up to 49,999 gross square feet of
23 Office Use shall be paid as follows:

24 (1) For any project that has submitted a complete Preliminary
25 Project Assessment on or before September 10, 2019, and has not had its building or

1 site permit issued as of the effective date of this ordinance in Board File No. 190548,
2 such project, regardless of when it submitted its complete Development Application,
3 shall pay \$46.98 per gross square foot. Any fees shall be assessed and paid consistent
4 with this Article 4.

5 (2) For any project that has submitted a complete Development
6 Application between the dates of September 11, 2019, and January 1, 2021~~2~~, and has
7 not had its building or site permit issued as of the effective date of this ordinance in
8 Board File No. 190548, such project shall pay \$54.81 per gross square foot. Any fees
9 shall be assessed and paid consistent with this Article 4.

10 (3) For any project that has submitted a complete Development
11 Application after January 1, 2021~~2~~, shall pay \$62.64 per gross square foot. Any fees
12 shall be assessed and paid consistent with this Article 4.

13 (e) **Laboratory Fees.** Notwithstanding any other provision of this
14 Code, fees for the net addition of Laboratory Use shall be paid as follows:

15 ~~(1)~~ For any project that has submitted a complete Preliminary
16 Project Assessment~~environmental evaluation application~~ on or before September 10,
17 2019, and has not had ~~received~~ its building or site permit issued as of the effective date
18 of this ordinance in Board File No. 190548, such project, regardless of when it
19 submitted its complete Development Application, shall pay \$31.43~~38.05~~ per gross
20 square foot. Any fees shall be assessed and paid consistent with this Article 4.

21 ~~(2)~~ For any project that has submitted a ~~environmental~~
22 ~~evaluation~~ Development Application between the dates of September 11, 2019, and
23 January 1, 2021~~2~~, and has not had ~~received~~ its building or site permit issued as of the
24 effective date of this ordinance in Board File No. 190548, such project shall pay
25

1 \$34.9042.20 per gross square foot. Any fees shall be assessed and paid consistent
2 with this Article 4.

3 (34) For any project that has submitted a environmental
4 evaluation-Development aApplication after January 1, 20212, shall pay \$38.3746.43 per
5 gross square foot. Any fees shall be assessed and paid consistent with this Article 4.

6 **SEC. 413.67. COMPLIANCE BY LAND DEDICATION ~~WITHIN THE CENTRAL~~**
7 **~~SOMA SPECIAL USE DISTRICT.~~**

8 (a) **Controls.** ~~Within the Central SoMa Special Use District, P~~projects may
9 satisfy all or a portion of the requirements of Section 413.1 ~~et seq. 5, 413.6 and 413.8~~ via
10 dedication of land to the City for the purpose of constructing units affordable to qualifying
11 households. Projects may receive a credit against such requirements up to the value of
12 the land donated, calculated pursuant to subsection (b) below.

13 (b) **Requirements.**

14 (1) The value of the dedicated land shall be determined by the
15 Director of Property pursuant to Chapter 23 of the Administrative Code, but shall not
16 exceed the actual cost of acquisition by the project sponsor of the dedicated land in an
17 arm’s length transaction. Prior to issuance by DBI of the first site or building permit for a
18 development project subject to Section 413.1 ~~et seq.~~ the sponsor shall submit to the
19 Department, with a copy to MOHCD and the Director of Property, documentation
20 sufficient to substantiate the actual cost of acquisition by the sponsor in an arm’s length
21 transaction of any land to be dedicated by the sponsor to the City ~~and County of San~~
22 ~~Francisco~~, and any additional information that would impact the value of the land.

23 (2) Projects are subject to the requirements of Section
24 419.5(a)(2)(A) and (C) ~~through (J)~~.

1 **SEC. 413.78. COMPLIANCE BY COMBINATION OF ~~PAYMENT TO HOUSING~~**
2 **~~DEVELOPER AND~~ PAYMENT OF IN-LIEU FEE AND LAND DEDICATION.**

3 With the written approval of the Director of MOHCD, the sponsor of a
4 development project subject to Section 413.1 *et seq.* may elect to satisfy its housing
5 requirement by a combination of ~~paying money or~~ contributing land to the City under
6 Section 413.67~~one or more housing developers under Section 413.5~~ and paying a partial
7 amount of the in-lieu fee to the Development Fee Collection Unit at DBI under Section
8 413.56. In the case of such election, the sponsor must pay a sum such that each gross
9 square foot of net addition of each type of space subject to Section 413.1 *et seq.* is
10 accounted for in either the ~~payment of a sum or~~ contribution of land to the City under
11 Section 413.67~~one or more housing developers~~ or the payment of a fee to the Development
12 Fee Collection Unit. ~~The housing units constructed by a housing developer must conform to all~~
13 ~~requirements of Section 413.1 et seq., including, but not limited to, the proportion that must be~~
14 ~~affordable to qualifying households as set forth in Section 413.5.~~ All of the requirements of
15 Sections ~~413.5 and~~ 413.1 *et seq.*6 shall apply, including the requirements with respect to
16 the timing of issuance of site and building permits, first construction documents, and
17 certificates of occupancy for the development project and payment of the in-lieu fee.

18 **SEC. 413.89. LIEN PROCEEDINGS.**

19 A project sponsor's failure to comply with the requirements of Sections ~~413.5,~~
20 413.56 and 413.67 shall be cause for the Development Fee Collection Unit at DBI to
21 institute lien proceedings to make the in-lieu fee, as adjusted under Section 413.56, plus
22 interest and any deferral surcharge, a lien against all parcels used for the development
23 project, in accordance with Section 408 of this Article 4 and Section 107A.13.15 of the
24 San Francisco Building Code.

25 **SEC. 413.910. CITYWIDE AFFORDABLE HOUSING FUND.**

1 (a) Use of Fees. All monies contributed pursuant to the Jobs Housing
2 Linkage Fee Program in Section 413.1 et seq. Sections 413.6 or 413.8 or assessed pursuant to
3 Section 413.9 shall be deposited in the Citywide Affordable Housing Fund ("Fund"),
4 established in Administrative Code Section 10.100-49. The receipts in the Fund
5 collected under Section 413.1 et seq. shall be used solely to increase the supply of
6 housing affordable to qualifying households subject to the conditions of this Section
7 413.910. The fees collected under this Section may not be used, by way of loan or
8 otherwise, to pay any administrative, general overhead, or similar expense of any entity.
9 ~~The Mayor's Office of Housing and Community Development ("MOHCD")~~ shall develop
10 procedures such that, for all projects funded by the Citywide Affordable Housing Fund,
11 MOHCD requires the project sponsor or its successor in interest to give preference in
12 occupying units as provided for in Administrative Code Chapter 47.

13 (1) Preservation and Acquisition Funds.

14 (A) Designation of Funds. MOHCD shall designate and
15 separately account for 10% of all fees that it receives under Section 413.1 et seq. that are
16 deposited into the Fund to support the acquisition and rehabilitation of rent restricted affordable
17 rental housing.

18 (B) Use of Preservation and Acquisition Funds. The funds shall
19 be used exclusively to acquire and preserve existing housing with the goal of making such
20 housing permanently affordable, including but not limited to acquisition of housing through the
21 City's Small Sites Program. Units supported by monies from the Fund shall be designated as
22 housing affordable to qualified households for the life of the project. Properties supported by
23 the Preservation and Acquisition Funds must be:

24 (i) rental properties that will be maintained as rental
25 properties;

1 (ii) vacant properties that were formerly rental properties
2 as long as those properties have been vacant for a minimum of two years prior to the effective
3 date of the ordinance in Board File No. 190548, amending this Section 413.940;

4 (iii) properties that have been the subject of foreclosure;
5 or

6 (iv) a Limited Equity Housing Cooperative as defined in
7 Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity
8 modeled as a Community Land Trust.

9 (C) **Annual Report.** At the end of each fiscal year, MOHCD shall
10 issue a report to the Board of Supervisors regarding the total amount of Preservation and
11 Acquisition Funds received, and how those funds were used.

12 (D) **Intent.** In establishing guidelines for Preservation and
13 Acquisition Funds, the Board of Supervisors does not intend to preclude MOHCD from
14 expending other eligible sources of funding on Preservation and Acquisition as described in this
15 Section 413.940

16 (2) **Permanent Supportive Housing.** MOHCD shall designate and
17 separately account for 30% of all fees that it receives under Section 413.1 et seq. that are
18 deposited into the Fund to support the development of permanent supportive housing that meets
19 the requirements of Section 413.1 et seq.

20 (b) **Accounting of Funds in Central SoMa Special Use District.** Pursuant
21 to Section 249.78(e)(1), all monies contributed pursuant to the Jobs-Housing Linkage
22 Program and collected within the Central SoMa Special Use District shall be paid into
23 the Citywide Affordable Housing Fund, but the funds shall be separately accounted for.
24 Consistent with the allocations in subsection (a), sSuch funds shall be expended within the

1 area bounded by Market Street, the Embarcadero, King Street, Division Street, and
2 South Van Ness Avenue.

3 **SEC. 413.11. ~~DIRECTOR OF PLANNING'S EVALUATION OF FEE.~~**

4 (a) If, in the discretion of the Director of Planning, there has been a
5 substantial change in the San Francisco and/or regional economies since the effective
6 date of the requirements of Section 413.1 *et seq.*, the Director may recommend to the
7 Commission, the Board of Supervisors, and the Mayor that Section 413.1 *et seq.* be
8 amended or rescinded to alleviate any undue burden on commercial development in the
9 City that Section 413.1 *et seq.* may impose.

10 (b) At the next comprehensive evaluation of all development fees and
11 development impact requirements, pursuant to Section 410, the Controller, in
12 consultation with the Department, and MOHCD and any necessary consultants,
13 consistent with the civil service provisions of the Charter, and every five years
14 thereafter, shall commission an update to the Jobs-Housing Nexus Analysis. The
15 comprehensive evaluation of the Jobs-Housing Linkage Fee, pursuant to Section 410,
16 shall include an evaluation of office projects in a range of sizes and an assessment of
17 the availability of office allocation.

18 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

19 * * * *

20 (f) **Use of Fees.** All monies contributed pursuant to the Inclusionary
21 Affordable Housing Program shall be deposited in the Citywide Affordable Housing
22 Fund ("~~the~~Fund"), established in Administrative Code Section 10.100-49, except as
23 specified below. ~~The Mayor's Office of Housing and Community Development ("MOHCD")~~
24 shall use the funds collected under this Section 415.5 in the following manner:

25 * * * *

1 (2) "Small Sites Funds."

2 (A) Designation of Funds. MOHCD shall designate and

3 separately account for 10% of all fees that it receives under Section 415.1 *et seq.* that
4 are deposited into the ~~Citywide Affordable Housing Fund, established in Administrative Code~~
5 ~~Section 10.100-49~~, excluding fees that are geographically targeted such as those referred
6 to in Sections 249.78(e)(1), 415.5(b)(1), and 827(b)(1), to support acquisition and
7 rehabilitation of Small Sites ("Small Sites Funds"). ~~MOHCD shall continue to divert 10% of~~
8 ~~all fees for this purpose until the Small Sites Funds reach a total of \$15 million, at which point~~
9 ~~MOHCD will stop designating funds for this purpose. At such time as designated Small Sites~~
10 ~~Funds are expended and dip below \$15 million, MOHCD shall start designating funds again for~~
11 ~~this purpose, such that at no time the Small Sites Funds shall exceed \$15 million.~~ When the
12 total amount of fees paid to the City under Section 415.1 *et seq.* is less than \$10 million
13 over the preceding 12-month period, MOHCD is authorized to temporarily divert funds
14 from the Small Sites Funds for other purposes. MOHCD shall keep track of the diverted
15 funds, however, such that when the amount of fees paid to the City under Section 415.1
16 *et seq.* meets or exceeds \$10 million over the preceding 12-month period, MOHCD
17 shall commit all of the previously diverted funds and 10% of any new funds, ~~subject to the~~
18 ~~cap above~~, to the Small Sites Funds.

19 * * * *

20 (E) Intent. In establishing guidelines for Small Sites Funds, the Board

21 of Supervisors does not intend to preclude MOHCD from expending other eligible
22 sources of funding on Small Sites as described in this Section 415.5, ~~or from allocating~~
23 ~~or expending more than \$15 million of other eligible funds on Small Sites.~~

24 * * * *

1 **SEC. 424.4. VAN NESS AND MARKET DOWNTOWN RESIDENTIAL**
2 **SPECIAL USE DISTRICT AFFORDABLE HOUSING FUND.**

3 That portion of gross floor area subject to the \$30.00 per gross square foot fee
4 referenced in Section 424.3(b)(i) above shall be deposited into the special fund
5 maintained by the Controller called the Citywide Affordable Housing Fund established
6 by Section 413.940. Except as specifically provided in this Section, collection,
7 management, enforcement, and expenditure of funds shall conform to the requirements
8 related to in-lieu fees in Planning Code Section 415.1 et seq., specifically including, but
9 not limited to, the provisions of Section 415.7.

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

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

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 AUSTIN M. YANG
 Deputy City Attorney

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