BOARD of SUPERVISORS

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M E M O R A N D U M

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Assistant Clerk by
Budget and Finance Committee

DATE: June 23, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 200651

Hearing to consider the proposed Initiative Ordinance submitted by the Mayor to the voters for the November 3, 2020, Election, entitled "Ordinance amending the Business and Tax Regulations Code to: 1) reduce the annual Business Registration Fee for businesses with $1,000,000 or less in San Francisco gross receipts, 2) increase the small business exemption ceiling for the Gross Receipts Tax to $1,500,000 and increase the annual Business Registration Fee on businesses benefiting from this increased exemption ceiling, 3) repeal the Payroll Expense Tax, 4) increase Gross Receipts Tax rates, 5) increase the Gross Receipts Tax on certain taxpayers for 15 years if a court strikes down the Homelessness Gross Receipts Tax Ordinance, 6) impose a new general tax on the gross receipts from the lease of certain commercial space for 15 years if a court strikes down the Early Care and Education Commercial Rents Tax Ordinance, and 7) make other changes to the City's business taxes; and to increase the City's appropriations limit by the total revenues collected under Articles 12-A-1 and 36 of the Business and Tax Regulations Code for four years from November 3, 2020."

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Submittal Form
For Proposed Initiative Measure(s)
Prior to Submittal to the Department of Elections

by 4 or more Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors' Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections (per Proposition C, November 2007).

This matter is for the **November 3, 2020** Election.

Sponsor(s): Mayor London Breed

Subject: Initiative Ordinance - Business and Tax Regulations Code - Business Tax Changes

The text is listed below or attached:

(See attached.)

Mayor Breed : London Breed

(Clerk of the Board's Time Stamp)

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BY

PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY THE MAYOR TO THE VOTERS AT THE NOVEMBER 3, 2020 ELECTION.

[Under Charter Sections 3.100(16) and 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than *45 days prior* to the deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Business and Tax Regulations Code - Business Tax Changes]

Ordinance amending the Business and Tax Regulations Code to: (1) reduce the annual Business Registration Fee for businesses with $1,000,000 or less in San Francisco gross receipts, (2) increase the small business exemption ceiling for the Gross Receipts Tax to $1,500,000 and increase the annual Business Registration Fee on businesses benefiting from this increased exemption ceiling, (3) repeal the Payroll Expense Tax; (4) increase Gross Receipts Tax rates, (5) increase the Gross Receipts Tax on certain taxpayers for 15 years if a court strikes down the Homelessness Gross Receipts Tax Ordinance, (6) impose a new general tax on the gross receipts from the lease of certain commercial space for 15 years if a court strikes down the Early Care and Education Commercial Rents Tax Ordinance, and (7) make other changes to the City's business taxes; and to increase the City's appropriations limit by the total revenues collected under Articles 12-A-1 and 36 of the Business and Tax Regulations Code for four years from November 3, 2020.

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Pursuant to Article XIII C of the Constitution of the State of California, this ordinance shall be submitted to the qualified electors of the City and County of San Francisco at the November 3, 2020, consolidated general election.

Section 2. The Business and Tax Regulations Code is hereby amended by revising Section 6.9-3 of Article 6, to read as follows:

SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; REMITTANCES.

(a) **Remittances.** Notwithstanding the due dates otherwise provided in Section 6.9-1, taxpayers shall make remittances of taxes and third-party taxes to the Tax Collector as follows:

* * * *

(3) **Payroll Expense Tax, Gross Receipts Tax, Early Care and Education Commercial Rents Tax, Homelessness Gross Receipts Tax, and Cannabis Business Tax: Estimated Tax Payments.** Except as provided in Section 6.9-3(a)(3)(G) with respect to estimated tax payments of the gross receipts tax, every person or combined group liable for payment of the payroll expense tax (Article 12-A), the gross receipts tax (Article 12-A-1) (including the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1), the Early Care and Education Commercial Rents Tax (Article 21), the Homelessness Gross Receipts Tax (Article 28) (including the homelessness administrative office tax imposed under Section 2804(d) of Article 28), or the Cannabis Business Tax (Article 30) shall make three estimated tax payments, in addition to the annual payments in Section 6.9-3(a)(4), as follows:

* * * *

(C) **Gross Receipts Tax Estimated Tax Payments.** For purposes of this Section 6.9-3, a person or combined group's estimated tax payments of gross receipts tax, including the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1, ~~*for any tax year*~~ shall *be as follows:* ~~*each equal the lesser of:*~~

(i) For any tax year other than tax year 2021, the lesser of:

~~*(i)*~~*a.* 25% of the gross receipts tax liability (including any liability for the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1) shown on the person or combined group's return for the tax year (or, if no return is filed, 25% of the person or combined group's actual gross receipts tax liability for the tax year); or

~~*(ii)*~~*b.* 25% of the gross receipts tax liability (including any liability for the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1) shown on the person or combined group's return for the preceding tax year. If the person or combined group did not file a return for the preceding tax year, the person or combined group shall be deemed to have filed a return showing no liability for purposes of this Section 6.9-3(a)(3)(C)(~~*i*~~i)*b.*, and no estimated tax payments of gross receipts taxes shall be due for the current tax year.

(ii) For tax year 2021, the lesser of:

a. 25% of the gross receipts tax liability (including any liability for the tax on administrative office business activities imposed under Section 953.8 of Article 12-A-1) shown on the person or combined group's return for tax year 2021 (or, if no return is filed, 25% of the person or combined group's actual gross receipts tax liability for tax year 2021); or

b. 25% of the payroll expense tax liability and gross receipts tax liability (including any liability for the tax on administrative office business activities imposed under

Section 953.8 of Article 12-A-1) shown on the person or combined group's return for tax year 2020. If the person or combined group did not file a return for tax year 2020, the person or combined group shall be deemed to have filed a return showing no liability for purposes of this Section 6.9-3(a)(3)(C)(ii)b., and no estimated tax payments of gross receipts taxes shall be due for tax year 2021.

* * * *

Section 3. The Business and Tax Regulations Code is hereby amended by revising Sections 855 and 856 of Article 12, to read as follows:

SEC. 855. REGISTRATION CERTIFICATE – FEE.

~~*(a)* ***Fee for registration years ending on or after June 30, 2004, but ending on or before June 30, 2014****. Except as otherwise provided in this Section and Section 856 of this Article, the annual fee for obtaining a registration certificate for registration years ending on or after June 30, 2004, but ending on or before June 30, 2014, payable in advance, shall be as follows:*~~

~~***San Francisco Payroll Expense Tax for the Immediately Preceding Tax Year***~~	~~***Annual Registration Fee***~~
~~*Less than $1*~~	~~*$25*~~
~~*$1 to $10,000*~~	~~*$150*~~
~~*$10,000.01 to $50,000*~~	~~*$250*~~
~~*More than $50,000*~~	~~*$500*~~

~~*(b) In the event that an applicant for a registration certificate, for registration years ending on or after June 30, 2004, but ending on or before June 30, 2014, has not filed a tax return for the immediately preceding tax year as required by Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee required based on the applicant's estimated tax liability*~~

~~*under Article 12-A (Payroll Expense Tax Ordinance) for the period covered by the registration certificate.*~~

~~*(c)* **Fee for Registration Year Commencing July 1, 2014 and Ending June 30, 2015.** *Except as otherwise provided in this Section and Section 856 of this Article, the annual fee for obtaining a registration certificate, for the registration year commencing July 1, 2014 and ending June 30, 2015, payable in advance, shall be as follows:*~~

~~**San Francisco Payroll Expense for the Immediately Preceding Tax Year**~~	~~**Annual Registration Fee**~~
~~*$0 to $66.66*~~	~~*$75*~~
~~*$66.67 to $75,000*~~	~~*$150*~~
~~*$75,001 to $100,000*~~	~~*$250*~~
~~*$100,001 to $150,000*~~	~~*$500*~~
~~*$150,001 to $200,000*~~	~~*$700*~~
~~*$200,001 to $250,000*~~	~~*$800*~~
~~*$250,001 to $1,000,000*~~	~~*$300*~~
~~*$1,000,001 to $2,500,000*~~	~~*$800*~~
~~*$2,500,001 to $5,000,000*~~	~~*$5,000*~~
~~*$5,000,001 to $10,000,000*~~	~~*$15,000*~~
~~*$10,000,001 to $25,000,000*~~	~~*$25,000*~~
~~*$25,000,001 to $40,000,000*~~	~~*$30,000*~~
~~*$40,000,001 or more*~~	~~*$35,000*~~

~~*(d) In the event that an applicant for a registration certificate, for registration year commencing July 1, 2014 and ending June 30, 2015, has not filed a tax return for the immediately preceding tax year as required by Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee required based on the applicant's payroll expense under Article 12-A (Payroll Expense Tax Ordinance) for the period covered by the registration certificate.*~~

(*ae*) **Fee for Registration Years Ending After June 30, 2015, *but On or Before June 30, 2021*.**

(1) **General Rule.** Except as otherwise provided in this Section *855* and Section 856 of this Article *12*, the annual fee for obtaining a registration certificate, for the registration years ending after June 30, 2015, *but on or before June 30, 2021*, payable in advance, shall be as follows:

San Francisco Gross Receipts for the Immediately Preceding Tax Year	***Annual Registration Fee***
$0 to $100,000	$90
$100,001 to $250,000	$150
$250,001 to $500,000	$250
$500,001 to $750,000	$500
$750,001 to $1,000,000	$700
$1,000,001 to $2,500,000	$300
$2,500,001 to $7,500,000	$500
$7,500,001 to $15,000,000	$1,500
$15,000,001 to $25,000,000	$5,000
$25,000,001 to $50,000,000	$12,500
$50,000,001 to $100,000,000	$22,500
$100,000,001 to $200,000,000	$30,000
$200,000,001 and over	$35,000

(2) **Fee for Retail Trade, Wholesale Trade and Certain Services.** Except as otherwise provided in this Section *855* and Section 856 of this Article *12*, for registration years ending after June 30, 2015, *but on or before June 30, 2021*, the annual fee for obtaining a registration certificate, payable in advance, for a business that was required to report all of its

gross receipts pursuant to Article 12-A-1, Section 953.1 for the preceding tax year, shall be as follows:

San Francisco Gross Receipts for the Immediately Preceding Tax Year	***Annual Registration Fee***
$0 to $100,000	$75
$100,001 to $250,000	$125
$250,001 to $500,000	$200
$500,001 to $750,000	$400
$750,001 to $1,000,000	$600
$1,000,001 to $2,500,000	$200
$2,500,001 to $7,500,000	$400
$7,500,001 to $15,000,000	$1,125
$15,000,001 to $25,000,000	$3,750
$25,000,001 to $50,000,000	$7,500
$50,000,001 to $100,000,000	$15,000
$100,000,001 to $200,000,000	$20,000
$200,000,001 and over	$30,000

(b) ***Fee for Registration Years Beginning On or After July 1, 2021.***

(1) ***General Rule.*** *Except as otherwise provided in this Section 855 and Section 856 of this Article 12, the annual fee for obtaining a registration certificate, for the registration years beginning on or after July 1, 2021, payable in advance, shall be as follows:*

San Francisco Gross Receipts for the Immediately Preceding Tax Year	***Annual Registration Fee***
$0 to $100,000	*$52*
$100,000.01 to $250,000	*$86*
$250,000.01 to $500,000	*$144*
$500,000.01 to $750,000	*$288*

$750,000.01 to $1,000,000	*$403*
$1,000,000.01 to $1,500,000	*$575*
$1,500,000.01 to $2,500,000	*$345*
$2,500,000.01 to $7,500,000	*$575*
$7,500,000.01 to $15,000,000	*$1,725*
$15,000,000.01 to $25,000,000	*$5,751*
$25,000,000.01 to $50,000,000	*$14,379*
$50,000,000.01 to $100,000,000	*$25,882*
$100,000,000.01 to $200,000,000	*$34,510*
$200,000,000.01 and over	*$40,261*

(2) ***Fee for Retail Trade, Wholesale Trade and Certain Services.*** *Except as otherwise provided in this Section 855 and Section 856 of this Article 12, for registration years beginning on or after July 1, 2021, the annual fee for obtaining a registration certificate, payable in advance, for a person or combined group that was required to report all of its gross receipts pursuant to Section 953.1 of Article 12-A-1 for the preceding tax year, shall be as follows:*

San Francisco Gross Receipts for the Immediately Preceding Tax Year	***Annual Registration Fee***
$0 to $100,000	*$43*
$100,000.01 to $250,000	*$72*
$250,000.01 to $500,000	*$115*
$500,000.01 to $750,000	*$230*
$750,000.01 to $1,000,000	*$345*
$1,000,000.01 to $1,500,000	*$475*
$1,500,000.01 to $2,500,000	*$230*
$2,500,000.01 to $7,500,000	*$460*
$7,500,000.01 to $15,000,000	*$1,294*
$15,000,000.01 to $25,000,000	*$4,313*
$25,000,000.01 to $50,000,000	*$8,627*

$50,000,000.01 to $100,000,000	*$17,255*
$100,000,000.01 to $200,000,000	*$23,006*
$200,000,000.01 and over	*$34,510*

(*c*~~f~~) Except as provided in subsection (*d*~~g~~) (*Fee for Persons Subject to* Administrative Office *Tax*~~*Business Activities*~~), in the event that an applicant for a registration certificate, for a registration year ending after June 30, 2015, has not filed a tax return for the immediately preceding tax year as required by Section 6.9-2 of Article 6, the Tax Collector shall determine the amount of the registration fee required based on the applicant's estimated gross receipts under Article 12-A-1 (Gross Receipts Tax Ordinance) for the period covered by the registration certificate.

(*d*~~g~~) **Fee for *Persons Subject to* Administrative Office *Tax*~~*Business Activities*~~.** Except as otherwise provided in this Section *855* and Section 856 of this Article *12*, the annual fee for obtaining a registration certificate*, payable in advance,* for *a person or combined group that was required to pay the Administrative Office Tax* ~~*Administrative Office Business Activities*~~ under Section 953.8 of Article 12-A-1 *for the preceding tax year*, ~~*for the registration years ending after June 30, 2015, payable in advance,*~~ shall be as follows:

San Francisco Payroll Expense for the Immediately Preceding Tax Year	***Annual Registration Fee***
$0 to $2,500,000	$15,000
$2,500,000.01 to $25,000,000	$25,000
$25,000,000.01 or more	$35,000

(*e*~~h~~) In the event that an applicant for a registration certificate *that was required to pay the* ~~*for*~~ Administrative Office *Tax*~~*Business Activities*~~ under Section 953.8 of Article 12-A-1 *for the preceding tax year*, for a registration year ending after June 30, 2015, has not filed a tax return for the immediately preceding tax year as required by Section 6.9-2 of Article 6, the Tax

Collector shall determine the amount of the registration fee required based on the applicant's estimated payroll expense under Article 12-A-1 for the period covered by the registration certificate.

(*f*~~i~~) The amount of annual registration fee under subsections (*a*~~e~~) and (*d*~~g~~) of this Section 855, for all registration years ending after June 30, 2016, shall be adjusted annually in accordance with the increase in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics, or any successor to that index, as of December 31st of the preceding year, beginning July 1, 2016.

(g) The amount of annual registration fee under subsection (b) of this Section 855, for all registration years ending after June 30, 2022, shall be adjusted annually in accordance with the increase in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics, or any successor to that index, as of December 31st of the preceding year, beginning July 1, 2022.

(*h*~~j~~) An~~y~~ organization *that is exempt from income taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the California Revenue and Taxation Code or Subchapter F (commencing with* ~~*having a formally recognized exemption from income taxation pursuant to*~~ Section 501~~*(c), 501(d) or 401(a*~~) of *Chapter 1 of Subtitle A of* the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503, 504, and 508 of the Internal Revenue Code of 1986, as amended, shall ~~*not*~~ be *exempt from the*~~*required to pay a*~~ registration fee under this Article *12, only so long as those exemptions continue to exist under state or federal law*~~*unless the organization is also engaged within the City in an unrelated trade or business within the meaning of Section 906 of Article 12-A or Section 954 of Article 12-A-1*~~.

(*i*~~k~~) A person shall be exempt from paying the registration fee required by this Section *855* if and to the extent that, and only so long as, federal or state law prohibits the imposition of the registration fee upon such person.

(*j*~~l~~) The business registration fee is a tax imposed for general governmental purposes and may not be extended or increased without a vote of the people, as provided in Article XIIIC of the California Constitution. This tax may be collected in any manner legally permitted to the City.

SEC. 856. REGISTRATION CERTIFICATE – APPLICATION AND ISSUANCE.

(a) Each person engaging in business within the City shall apply to the Tax Collector for a registration certificate, using the form prescribed by the Tax Collector. The application shall be accompanied by the person's registration fee as determined under this Article *12*, except for the initial application filed for a person that is part of a combined group (as described in Section 956.3 of Article 12-A-1) where the combined group has already paid the fee on a combined basis. A combined group as described in Section 956.3 of Article 12-A-1 shall apply for a separate certificate for each person in the combined group that is engaging in business within the City, but shall calculate and remit its fee on a combined basis and shall file only one application for renewal for all entities in the combined group.

(b) A person shall have 15 days after commencing business within the City to apply for a registration certificate. The registration fee for newly-established businesses shall be prorated as follows:

(1) ~~*For the registration year commencing on or after July 1, 2014 and ending June 30, 2015, the fee for obtaining a registration certificate for a newly established business shall be determined pursuant to Section 855(c) of this Article using the applicant's estimated payroll expense under Article 12-A (Payroll Expense Tax Ordinance) for the tax year in which the person commences*~~

~~such business within the City.~~ For registration years commencing on or after July 1, 2015, *but ending on or before June 30, 2021*, the fee for obtaining a registration certificate for a newly established business shall be determined pursuant to Section 855(*a*~~e~~) of this Article *12* using the applicant's estimated gross receipts under Article 12-A-1 (Gross Receipts Tax Ordinance) for the tax year in which the person commences such business within the City. *For registration years commencing on or after July 1, 2021, the fee for obtaining a registration certificate for a newly established business shall be determined pursuant to Section 855(b) of this Article using the applicant's estimated gross receipts under Article 12-A-1 (Gross Receipts Tax Ordinance) for the tax year in which the person commences such business within the City.* The registration fee shall be prorated as follows: For persons commencing business between January 1st and March 31st, the registration fee shall be 50*%* ~~*percent*~~ of the annual fee; for persons commencing business between April 1st and June 30th, the registration fee shall be 25*%* ~~*percent*~~ of the annual fee; for persons commencing business between July 1st and September 30th, the registration fee shall be 100*%* ~~*percent*~~ of the annual fee; and for persons commencing business between October 1st and December 31st, the registration fee shall be 75*%* ~~*percent*~~ of the annual fee. Where a registration certificate is issued for a period other than for a registration year, the Tax Collector shall have discretion to prorate the registration fee in accordance with this model.

(2) Notwithstanding any other provision of this Article *12*, no person obtaining a registration certificate for a newly established business that qualifies for the minimum registration fee set forth in Section 855 of this Article shall be entitled to prorate the registration fee under this Section *856*, but instead shall pay the minimum registration fee.

* * * *

Section 4. The Business and Tax Regulations Code is hereby amended by deleting Article 12-A, consisting of Sections 901 through 909, as follows:

~~***SEC. 901. SHORT TITLE.***~~

~~*This ordinance shall be known as the "Payroll Expense Tax Ordinance" and the tax imposed herein shall be known as the "Payroll Expense Tax."*~~

~~***SEC. 902. OPERATION OF DEFINITIONS.***~~

~~*Except where the context otherwise requires, terms not defined in this Article that are defined in Article 6 shall have the same meaning as given to them in Article 6.*~~

~~***SEC. 902.1. PAYROLL EXPENSE.***~~

~~*(a) The term "Payroll Expense" means the compensation paid to, on behalf of, or for the benefit of an individual, including shareholders of a professional corporation or a Limited Liability Company ("LLC"), including salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), compensation for services to owners of pass-through entities, and any other form of compensation, who during any tax year, perform work or render services, in whole or in part in the City; and if more than one individual or shareholders of a professional corporation or members of an LLC, during any tax year performs work or renders services in whole or in part in the City, the term "Payroll Expense" means the total compensation paid including salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), in addition to any compensation for services to owners of pass-through entities, and any other form of compensation for services, to all such individuals and shareholders of a professional corporation or members of an LLC.*~~

~~*(b) Any person that grants a service provider a right to acquire an ownership interest in such person in exchange for the performance of services shall include in its payroll expense for the tax year in which such right is exercised an amount equal to the excess of (i) the fair market value of such ownership interest on the date such right is exercised over (ii) the price paid for such interest.*~~

~~*(c) Any individual compensated in his or her capacity as a real estate salesperson or mortgage processor shall be deemed an employee of the real estate broker or mortgage broker for or under whom such individual performs services, and any compensation received by such individual, including compensation by way of commissions, shall be included in the payroll expense of such broker. For purposes of this Section, "real estate broker" and "mortgage broker" refer to any individual licensed as such under the laws of the State of California who engages the services of salespersons or a salesperson, or of mortgage processors or a mortgage processor, to perform services in the business which such broker conducts under the authority of his or her license; a "salesperson" is an individual who is engaged by a real estate broker to perform services, which may be continuous in nature, as a real estate salesperson under an agreement with a real estate broker, regardless of whether the individual is licensed as a real estate broker under the laws of the State of California; a "mortgage processor" is an individual who is engaged by a real estate broker or mortgage broker to perform services which may be continuous in nature, as a mortgage processor under an agreement with such real estate broker or mortgage broker, regardless of whether the mortgage processor is also licensed as a mortgage broker under the laws of the State of California.*~~

~~*(d) All compensation, including all pass-through compensation for services paid to, on behalf of, or for the benefit of owners of a pass-through entity, shall be included in the calculation of such entity's payroll expense tax base for purposes of determining such entity's tax liability under this Article. For purposes of this section, the "pass-through compensation for services" of a pass-through entity shall be the aggregate compensation paid by such entity for personal services rendered by all such owners, and shall not include any return on capital investment. The taxpayer may calculate the*~~

~~*amount of compensation to owners of the entity subject to the Payroll Expense Tax, or the taxpayer may presume that, in addition to amounts reported on a W-2 form, the amount subject to the payroll expense tax is, for each owner, an amount that is two hundred percent (200%) of the average annual compensation paid to, on behalf of, or for the benefit of the employees of the pass-through entity whose compensation is in the top quartile (i.e., 25%) of the entity's employees who are based in the City; provided, the total number of employees of the entity based in the City is not less than four.*~~

~~***SEC. 902.2. PASS-THROUGH ENTITY.***~~

~~*The term "pass-through entity" includes a trust, partnership, corporation described in Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited liability partnership, professional corporation, and any other person or entity (other than a disregarded entity for federal income tax purposes) which is not subject to the income tax imposed by Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or which is allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such person or entity. Any person exempt from payment of the Payroll Expense Tax under Section 905-A or 906 of this Article shall not be disqualified from or denied such exemption as result of being a "pass-through entity" under this Section.*~~

~~***SEC. 903. IMPOSITION OF PAYROLL EXPENSE TAX.***~~

~~*(a) A tax for general governmental purposes is hereby imposed upon every person engaging in business within the City as defined in Section 6.2-12 of Article 6; provided, that such tax shall be levied only upon that portion of the person's payroll expense that is attributable to the City as set forth in Section 904.*~~

~~*(b) The Payroll Expense Tax is imposed for general governmental purposes and in order to require commerce and the business community to carry a fair share of the costs of local government in*~~

~~*return for the benefits, opportunities and protections afforded by the City. Proceeds from the tax shall be deposited in the City's general fund and may be expended for any purposes of the City.*~~

~~***SEC. 903.1. RATE OF PAYROLL EXPENSE TAX.***~~

~~*(a) Except as provided in subsection (b), the rate of the payroll expense tax shall be 1½ percent. The amount of a person's liability for the payroll expense tax shall be the product of such person's taxable payroll expense multiplied by the rate of the payroll expense tax expressed as a decimal (e.g., for a payroll expense tax rate of 1½ percent, 0.015). The amount of such tax for Associations shall be the sum of the payroll expense of such Association and the total distributions made by such Association by way of salary to those having an ownership interest in such Association, multiplied by the rate of the payroll expense tax expressed as a decimal (e.g., for a payroll expense tax rate of 1½ percent, 0.015). Amounts paid or credited to those having an ownership interest in such Association prior and in addition to the distribution of ownership profit or loss shall be presumed to be distributions "by way of salary" and for personal services rendered, unless the taxpayer proves otherwise by clear and convincing evidence.*~~

~~*(b) Commencing on the operative date of the Gross Receipts Tax Ordinance, the rate of the payroll expense tax shall be computed by the Controller in accordance with subsections (c) and (d). The Controller shall certify and publish such rate on or before September 1 of each year.*~~

~~*(c) Commencing on the operative date of the Gross Receipts Tax Ordinance:*~~

~~*(1) For any tax year in which the payroll expense tax rate, computed in accordance with subsection (d), is less than zero, then the payroll expense tax rate for that year and all subsequent years shall be zero. The Controller shall certify and publish such rate on or before September 1 of that year.*~~

~~*(2) Notwithstanding any other provision of this Article or Article 12-A-1, the payroll expense tax rate for 2019 and all future years shall be the rate in effect in tax year 2018. The*~~

~~*Controller shall certify and publish such rate on or before September 1, 2019, at which time the Controller's duty to compute, certify and publish the payroll expense tax rate shall cease.*~~

~~*(3) Notwithstanding any other provision of this Article or Article 12-A-1, in no event shall the payroll expense tax rate for any year exceed 1½ percent.*~~

~~*(d) Payroll Expense Tax Rate Computation. The Controller shall compute the payroll expense tax rate for each tax year according to the following table and formulas:*~~

~~*(1) Payroll Expense Tax Rate Computation Table*~~

~~*Tax Year*~~	~~*Payroll Expense Tax Rate (PAYRATEyear)*~~
~~*2014*~~	~~$PAYRATE_{14} = 1.350\%$~~
~~*2015*~~	~~$PAYRATE_{15} = 1.125\% + PADJ_{15}$~~
~~*2016*~~	~~$PAYRATE_{16} = 0.750\% + PADJ_{16}$~~
~~*2017*~~	~~$PAYRATE_{17} = 0.375\% + PADJ_{17}$~~
~~*2018*~~	~~$PAYRATE_{18} = 0\% + PADJ_{18}$~~

~~*Where: "PADJyear" is the payroll expense tax rate adjustment factor expressed as a percentage and computed in accordance with subsection (d)(2).*~~

~~*(2) Payroll Expense Tax Rate Adjustment Factor Computation. Unless the prior year's payroll expense tax rate is zero, in which case the payroll expense tax adjustment factor does not apply, the Controller shall compute the payroll expense tax rate adjustment factor (PADJyear) according to the following table and formulas:*~~

~~*Payroll Expense Tax Rate Adjustment Factor Computation Table*~~

~~*Tax Year*~~	~~*Payroll Expense Tax Rate Adjustment (PADJyear)*~~
~~*2015*~~	~~$PADJ_{15} = MR_{15}/(PAYTAX_{14}/PAYRATE_{14})$~~
~~*2016*~~	~~$PADJ_{16} = MR_{16}/(PAYTAX_{15}/PAYRATE_{15})$~~
~~*2017*~~	~~$PADJ_{17} = MR_{17}/(PAYTAX_{16}/PAYRATE_{16})$~~

~~2018~~	~~$PADJ_{18} = MR_{18}/(PAYTAX_{17}/PAYRATE_{17})$~~

~~*Where:*~~

~~*(A) "PAYTAXyear" = is, for any year, the actual payroll expense tax revenue (not including penalties, interest, or administrative fees) due for that year and collected on or before June 30 of the following year;*~~

~~*(B) "PAYRATEyear" = is, for any year, the payroll expense tax rate in effect for that year; and*~~

~~*(C) "MRyear" is computed in accordance with subsection (d)(3).*~~

~~*(3) Missing Revenue Factor Computation. The Missing Revenue Factor (MRyear) is, for any year, the amount by which the combined revenue actually collected from the payroll expense tax, gross receipts tax, and business registration fee for the previous year differs from the sum of expected payroll tax revenue, business registration fees, and administrative costs for the previous year. Unless the prior year's payroll expense tax rate is zero, in which case the missing revenue factor does not apply, the Controller shall compute the missing revenue factor (MRyear) according to the following table and formulas:*~~

~~*Missing Revenue Factor Computation Table*~~

~~*Tax Year*~~	~~*Missing Revenue (MRyear)*~~
~~*2015*~~	~~$MR_{15} = ADM_{14} + \$37,216,000 + ER_{14} - (1.125\%/1.350\%) \times PAYTAX_{14} - (25\%/10\%) \times GRTAX_{14} - REG_{14}$~~
~~*2016*~~	~~$MR_{16} = ADM_{15} + \$38,071,000 + ER_{15} - (0.750\%/PAYRATE_{15}) \times PAYTAX_{15} - (50\%/25\%) \times GRTAX_{15} - REG_{15}$~~
~~*2017*~~	~~$MR_{17} = ADM_{16} + \$38,951,650 + ER_{16} - (0.375\%/PAYRATE_{16}) \times PAYTAX_{16} - (75\%/50\%) \times GRTAX_{16} - REG_{16}$~~
~~*2018*~~	~~$MR_{18} = ADM_{17} + \$39,858,720 + ER_{17} - (100\%/75\%) \times GRTAX_{17} - REG_{17}$~~

~~*Where:*~~

~~*(A) "GRTAXyear" is, for any year, the actual gross receipts tax revenue (not including penalties, interest, or administrative fees) due for that year and collected on or before June 30 of the following year;*~~

~~*(B) "REGyear" is, for any year, the business registration fee revenue for the fiscal year beginning in that year and collected on or before June 30 of that year;*~~

~~*(C) "ERyear" is the computed in accordance with subsection (d)(4);*~~

~~*(D) "$37,216,000," $38,071,000," "38,951,650," and "39,858,720" are the amounts of total business registration fee revenue expected for the year prior to the year for which MRyear is being computed; and*~~

~~*(E) "ADMyear" is an estimate of the additional expense incurred by the Tax Collector in administering the tax. It shall be established annually by the Controller and shall not exceed 2 percent of the sum of the actual payroll expense tax revenue and gross receipts tax revenue for the prior year.*~~

~~*(4) Expected Revenue Factor Computation. The Expected Review Factor (ERyear) is, for any year, an estimate of the amount of payroll expense tax that would have been collected had a 1½ percent payroll expense tax rate been in effect based on the actual amount of payroll expense tax collected in the previous year, the previous year's payroll expense tax rate, and an assumed growth of 3 percent in the tax base. Unless the prior year's payroll expense tax rate is zero, the Controller shall compute the expected revenue factor (ERyear) according to the following table and formulas:*~~

~~*Expected Revenue Factor Computation Table*~~

~~*Tax Year*~~	~~*Expected Revenue (ERyear)*~~
~~*2014*~~	~~$ER_{14} = PAYTAX_{13} \times 1.03$~~
~~*2015*~~	~~$ER_{15} = (1.500\%/1.350\%) \times PAYTAX_{14} \times 1.03$~~

~~2016~~	~~$ER_{16} = (1.500\%/PAYRATE_{15}) \times PAYTAX_{15} \times 1.03$~~
~~2017~~	~~$ER_{17} = (1.500\%/PAYRATE_{16}) \times PAYTAX_{16} \times 1.03$~~

~~***SEC. 904. APPORTIONMENT OF PAYROLL EXPENSE.***~~

~~*Where payroll expense is incurred by reason of work performed or services rendered by an individual wholly within the City, all of the payroll expense for such individual shall be attributable to the City and subject to tax hereunder. Where payroll expense is incurred by reason of work performed or services rendered by an individual partly within and partly without the City, the portion of such payroll expense attributable to the City (and subject to tax hereunder) shall be determined as follows:*~~

~~*(a) Except as otherwise provided in this section, the portion of such payroll expense attributable to the City shall be the portion of such payroll expense which the total number of working hours employed within the City bears to the total number of working hours within and without the City.*~~

~~*(b) If the amount of such payroll expense depends on the volume of business transacted by such individual, then the portion of such payroll expense attributable to the City shall be the portion of such payroll expense which the volume of business transacted by such individual in the City bears to the volume of business transacted by such individual within and without the City.*~~

~~*(c) If it is impracticable, unreasonable or improper to apportion such payroll expenses as aforesaid either because of the particular nature of the services of such individual, or on account of the unusual basis of compensation, or for any other reason, then the amount of such payroll earnings reasonably attributable to work performed or services rendered in the City shall be determined on the basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or regulations issued or promulgated by the Tax Collector for the purpose.*~~

~~*(d) If the Tax Collector determines that the percentage of payroll expenses attributable to the City, for any one or more persons, is a relatively stable percentage, the Tax Collector may establish that percentage as a prima facie evidence of payroll expense attributable to the City; provided, that the*~~

~~*Tax Collector shall condition the establishment of such fixed percentage upon the obligation of the taxpayer to report immediately to the Tax Collector any significant change in the taxpayer's mode of business which may impact the portion of the person's payroll expense which is attributable to the City; and, provided further, that the Tax Collector may rescind any such fixed percentage at any time by providing written notice to the taxpayer of such rescission.*~~

~~***SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.***~~

~~*(a) Notwithstanding any other provisions of this Article 12-A, a "small business enterprise" as hereinafter defined, shall be exempt from payment of the payroll expense tax; provided, however, that a small business enterprise shall pay the annual registration fee pursuant to Section 855 of Article 12.*~~

~~*(b) The term "small business enterprise" shall mean and include any person whose taxable payroll expense does not exceed $250,000.*~~

~~*(c) For the 2011 tax year, and each second succeeding tax year the Tax Collector shall increase the ceiling for the small business tax exemption (rounded to the nearest $10,000 increment) to reflect increases in the United States Department of Labor's Bureau of Labor Statistics consumer price index for all urban customers for the San Francisco-Oakland-San Jose area for each of the preceding two tax years.*~~

~~***SEC. 906. EXEMPTION PROVISIONS.***~~

~~*(a) Except as provided in Subsection (b) of this Section, an organization having a formally recognized exemption from income tax pursuant to Sections 501(c) or 501(d) or 401(a) of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503 and 504 of the Internal Revenue Code of 1986, as amended, shall be exempt from taxation under this Article.*~~

~~*(b) Except for an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, an organization otherwise exempt from taxation under Subsection (a) of this Section*~~

~~*that is directly engaged within the City in an unrelated trade or business within the meaning of Section 513(a) of the Internal Revenue Code of 1986, as amended, and has, from its own operations, unrelated business taxable income within the meaning of Section 512(a)(1) of the Internal Revenue Code of 1986, as amended, shall pay the Payroll Expense Tax equal to the amount calculated by multiplying the tax which would have been due under this Article if the organization were not an exempt organization by the percentage which its unrelated business receipts bear to its total receipts. If it is impracticable, unreasonable or improper to allocate such organization's payroll expense as aforesaid either because of the particular nature of the organization's unrelated trade or business or the particular nature of the services provided to the organization in connection therewith by its employees, or on account of the unusual basis of compensation, or for any other reason, then the amount of such payroll expense reasonably attributable to work performed or services rendered in the City shall be determined on the basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or regulations issued or promulgated by the Tax Collector for the purpose.*~~

~~*(c) Blind persons licensed under the provisions of Chapter 6A of Title 12 of the United States Code ("Vending Stands for Blind in Federal Buildings") and Article 5 of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code of the State of California ("Business Enterprises for the Blind") need not include in the computation of payroll expense the first $15,000 of payroll expense in any one year which is attributable to their licensed operations within the City.*~~

~~*(d) Skilled Nursing Facilities licensed under the provisions of Title 22, California Administrative Code, Division 5 ("Licensing and Certification of Health Facilities and Referral Agencies") Chapter 3 ("Skilled Nursing Facilities"), shall be exempt from taxation under this Article.*~~

~~*(e) For only so long as and to the extent that the City is prohibited from imposing the tax under this Article, the following persons shall be exempt from the Payroll Expense Tax:*~~

~~*(1) Banks and financial corporations exempt from local taxation under Article XIII, Section 27 of the California Constitution and Revenue and Taxation Code Section 23182;*~~

~~*(2) Insurance companies exempt from local taxation under Article XIII, Section 28 of the California Constitution;*~~

~~*(3) Persons engaging in business as a for-hire motor carrier of property under Revenue and Taxation Code Section 7233;*~~

~~*(4) Persons engaging in intercity transportation as a household goods carrier under Public Utilities Code Section 5327;*~~

~~*(5) Charter-party carriers operating limousines that are neither domiciled nor maintain a business office with the City under Public Utilities Code Section 5371.4;*~~

~~*(6) Any person upon whom the City is prohibited under the Constitution or statute of the state of California from imposing the Payroll Expense Tax.*~~

~~*(f) To the extent that any taxpayer has paid a substantially similar tax to any other taxing jurisdiction on any payroll expense taxed under this Article, the tax paid to such taxing jurisdiction shall be credited against the tax due under this Article.*~~

~~*(g) Nothing in this Article shall be construed as requiring the payment of any tax for engaging in a business or the doing of an act when such payment would be in violation of the Constitution or a statute of the United States or of the Constitution or a statute of the State of California.*~~

~~***SEC. 906A. ENTERPRISE ZONE TAX CREDIT.***~~

~~*(a) A credit against this tax shall be allowed for each person who maintains a fixed place of business within the San Francisco Enterprise Zone and who, between January 1, 1992 and the effective date of this legislation, creates one or more new jobs and hires employees who qualify under*~~

~~*Subsection (b) of this Section; provided, however, that in no event shall the tax credit reduce a person's tax liability to less than zero. Moreover, the tax credits shall only serve as an offset against the additional tax that would be paid as a result of additional hiring by a business within the zone. Each person claiming this credit shall file with the Tax Collector, on a form prescribed by the Tax Collector, an affidavit attesting to facts establishing his or her entitlement to the tax credit; said affidavit shall be supported by state tax credit forms (EDD, DSS, and PIC).*~~

~~*(b) An employee is a "qualified employee" for purposes of computing this tax credit if he or she is newly hired by the taxpayer on or after January 1, 1992 and either (1) is receiving subsidized employment training or services under the terms of the Federal Job Training Partnership Act (JTPA); or (2) is registered in the Greater Avenues for Independence (GAIN) Program; or (3) is certified by the Employment Development Department as eligible for the federal Work Opportunity Credit Program; or (4) is receiving General Assistance.*~~

~~*(c) The tax credit, for each qualified employee, shall be a varying percentage of the additional tax that would be incurred as a result of additional wages paid for work performed within the Enterprise Zone, and the dollar amount of such tax credit shall depend both upon the duration of employment as of the date payroll taxes are due, and the eligible wages paid, as follows:*~~

~~*(1) The eligible wages to which the percentage is applied shall be limited to wages paid for work performed by the qualified employee while physically present within San Francisco.*~~

~~*(2) The percentage to be applied to eligible wages shall depend upon the employee's duration of employment as follows:*~~

~~***Duration of Employment***~~	~~***Credit Allowed on Payroll Tax Liability***~~
~~*First 24 months*~~	~~*100%*~~
~~*Second 24 months*~~	~~*50%*~~
~~*Third 24 months*~~	~~*25%*~~
~~*Fourth 24 months*~~	~~*15%*~~

~~*Fifth 24 months*~~	~~*10%*~~

~~*(d) On or after the effective date of this legislation a credit against this tax shall be allowed for each person who maintains a fixed place of business within the San Francisco Enterprise Zone and who hires new employees who qualify under Subsection (f) of this Section; provided, however, that in no event shall the tax credit reduce a person's tax liability to less than zero. Moreover, the tax credits shall only serve as an offset against the tax that would be paid as a result of hiring by a business within the zone. Each person claiming this credit shall file with the Tax Collector, on a form prescribed by the Tax Collector, an affidavit attesting to facts establishing his or her entitlement to the tax credit; said affidavit shall be supported by applicable State tax credit forms (EDD, DSS) and an approved state enterprise zone voucher.*~~

~~*(e) "Enterprise zone" means the area within the City and County of San Francisco designated as an enterprise zone by the State Department of Housing and Community Development pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.*~~

~~*(f) "Qualified employee" means a San Francisco resident who meets all of the following requirements:*~~

~~*(1) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.*~~

~~*(2) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.*~~

~~*(3) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.*~~

~~*(4) Is any of the following:*~~

~~*(i) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the Federal Job Training*~~

~~*Partnership Act (29 U.S.C. Sec. 1501* et seq.*), or its successor, who is receiving, subsidized employment, training, or services funded by the Federal Job Training Partnership Act, or its successor.*~~

~~*(ii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.*~~

~~*(iii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.*~~

~~*(iv) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:*~~

~~*(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.*~~

~~*(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.*~~

~~*(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.*~~

~~*(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.*~~

~~*(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.*~~

~~*(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.*~~

~~*(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.*~~

~~*(hh) Has been terminated or laid off or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.*~~

~~*(v) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.*~~

~~*(vi) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.*~~

~~*(vii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:*~~

~~*(aa) Federal Supplemental Security Income benefits.*~~

~~*(bb) Aid to Families with Dependent Children.*~~

~~*(cc) Food stamps.*~~

~~*(dd) State and local general assistance.*~~

~~*(viii) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.*~~

~~*(ix) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.*~~

~~*(g) The tax credit, for each qualified employee, shall be a varying percentage of the tax that would be incurred as a result of wages paid for work performed within the Enterprise Zone, and the dollar amount of such tax credit shall depend both upon the duration of employment as of the date payroll taxes are due, and the eligible wages paid, as follows:*~~

~~*(1) The eligible wages to which the percentage is applied shall be limited to wages paid for work performed by the qualified employee while physically present within San Francisco.*~~

~~*(2) The percentage to be applied to eligible wages shall depend upon the employee's duration of employment as follows:*~~

~~***Duration of Employment***~~	~~***Credit Allowed on Payroll Tax Liability***~~
~~*First 24 months*~~	~~*100%*~~
~~*Second 24 months*~~	~~*50%*~~
~~*Third 24 months*~~	~~*25%*~~
~~*Fourth 24 months*~~	~~*15%*~~
~~*Fifth 24 months*~~	~~*10%*~~

~~*(h) This Section 906A shall expire by operation of law on December 31, 2021, unless extended by the Board of Supervisors or the voters, and the City Attorney shall cause it to be removed from future editions of the Business and Tax Regulations Code.*~~

~~***SEC. 906.1. BIOTECHNOLOGY EXCLUSION.***~~

~~*(a) Any person engaging in biotechnology business within the city may exclude from their payroll expense all compensation paid to, on behalf of or for the benefit of all employees of that person, and all distributions by an Association by way of salary to those having an ownership interest in such Association, who or that perform substantially all work or render substantially all services in direct support of such person's biotechnology business, subject to the conditions and limitations set forth in this Section. For purposes of this Section, outside contractors shall not be considered employees of the biotechnology business. For purposes of this Section, "biotechnology business" means conducting biotechnology research and experimental development, and operating laboratories for biotechnology research and experimental development, using DNA, cells, and/or bioprocessing techniques, as well as the application thereof to the development of therapeutics, diagnostic products and/or devices to improve human health, animal health, and agriculture.*~~

~~*(b) For purposes of this section, "DNA" is a nucleic acid sequence, or fragment thereof, that contains the genetic information for cell growth, division, and function. Examples of DNA include recombinant DNA, RNA, mRNA, antisense, RNAi, genes and ESTs.*~~

~~*(c) For purposes of this section, "cells" are membrane bound structures containing biomolecules, such as nucleic acids, proteins, and polysaccharides. This definition includes both prokaryotic (bacterial) and eukaryotic (animal or plant) cells. Examples include primary cells, transformed or cultured cells, stem cells, iPS, ESCs, fused cells and cell lines.*~~

~~*(d) For purposes of this section, "bioprocessing" is the use of microbial, plant, or animal cells or portions thereof, for the production of therapeutics or diagnostics. Bioprocessing includes the extraction of compounds from biomaterials; reaction of biomaterials, such as microbial fermentation, cell culture, cell fusion or biotransformation by enzymes; and separation of product from biomaterials using filtration, purification, precipitation, centrifugation, solvents, chromatography or other means.*~~

~~*(e) The biotechnology exclusion authorized under this Section shall be available to and may be taken by each person engaging in the biotechnology business in the City for a period of seven and one-half years from the effective date of this Section or the commencement of the person's biotechnology business in the City, whichever is later. The date the Director of Public Health or his or her designee received the person's application for a business registration certificate for the person's biotechnology business shall be presumed to be the date of commencement of such business unless the person establishes a different commencement date to the satisfaction of the Tax Collector.*~~

~~*(f) In order to be eligible for the payroll expense tax exclusion authorized under this Section, persons wishing to claim the exclusion must:*~~

~~*(1) Complete and submit an initial application to the Director of the Department of Public Health or his or her designee for review and evaluation. The Director of the Department of Public Health, or his or her designee shall have authority to develop eligibility criteria for the biotechnology exclusion, which shall include participation in the City's First Source Hiring Program as defined in Section 83.4 of the Administrative Code.*~~

~~*(2) After approval, file an annual affidavit with the Department of Public Health affirming that they continue to meet the eligibility criteria as determined by the Department of Public Health. The affidavit must be filed with the Department of Public Health on or before January 31 of every year after the year the application is first approved.*~~

~~*(3) Maintain a reasonable method of documentation that can be reviewed or verified objectively that tracks how employees whose compensation qualifies for the payroll expense tax exclusion spend their time at work, and provide such documentation to the Tax Collector upon request.*~~

~~*(4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the amount of tax liability shown on the return after claiming the exclusion provided for in this Section.*~~

~~*(5) File annual affidavits with the Office of Economic and Workforce Development detailing the total number of individuals hired, the number of individuals hired who were referred by*~~

~~*the San Francisco Workforce Development System, and the duration of employment for each individual hired. The affidavits must be filed with the Office of Economic and Workforce Development on or before January 31 of every year after the year the application is first approved.*~~

~~*(g) The biotechnology exclusion authorized under this Section shall expire on the tenth anniversary date of the effective date of this Section. Unless exempted under Sections 906 of this Article, every person engaging in the biotechnology business in the City shall pay the tax imposed under this Article on the full amount of the person's payroll expense attributable to the City from and after the expiration of this Section.*~~

~~*(h) If a person's taxable payroll for any year does not exceed the small business exemption amount as defined in Section 905-A, the person shall be exempt from payment of the Payroll Expense Tax for that year.*~~

~~*(i) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the biotechnology exclusion authorized under this Section is available that sets forth aggregate information on the dollar value of the biotechnology exclusions taken each year, the number of businesses taking the exclusion, the change in the number of biotechnology businesses engaging in business in the City, and any increase or decrease in the number of jobs in the biotechnology business sector compared to the number of jobs in the biotechnology business sector for the immediately preceding calendar year.*~~

~~*(j) The Assessor-Recorder and the Tax Collector shall jointly prepare and submit an annual report to the Board of Supervisors for each year for which the biotechnology exclusion authorized under this Section is available that sets forth any increases in property taxes resulting from biotechnology businesses location, relocation or expansion to or within the City.*~~

~~*(k) The Mayor's Office of Economic Development shall coordinate community educational workshops on the biotechnology industry.*~~

~~*(l) The Controller, after five years from the enactment of this Ordinance, shall perform an assessment and review of the effect of the biotechnology tax exclusion. Based on such assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, and may include but is not limited to, data contained in the annual reports to the Board of Supervisors as required by subsections (i) and (j) of this Section.*~~

~~***SEC. 906.2. CLEAN TECHNOLOGY BUSINESS EXCLUSION.***~~

~~*(a) Any person that employs a full-time staff of not more than one hundred employees and is engaging in a clean technology business may exclude from the person's payroll expense all compensation paid to, on behalf of or for the benefit of the person's employees, and all distributions by an association by way of salary to those having an ownership interest in such association, who or that perform substantially all work or render substantially all services in direct support of such person's clean technology business activities, subject to the conditions and limitations set forth in this Section. For purposes of this Section, outside independent contractors shall not be considered employees of the clean technology business.*~~

~~*(b) For purposes of this section, the following terms shall have the meanings set forth below:*~~

~~*(1) The term "person" includes the combination of all domestic subsidiaries, affiliates and other business entities related by ownership including but not limited to partnerships, joint ventures, limited liability companies, corporations and other business organizations of whatever form. Any beneficial ownership of the stock of publicly traded corporations shall not be considered for purposes of this definition.*~~

~~*(2) The term "business" is as defined in Section 6.2-5 of Article 6 of the San Francisco Business and Tax Regulations Code.*~~

~~*(3) The term "association" is as defined in Section 6.2-4 of Article 6 of the San Francisco Business and Tax Regulations Code.*~~

~~*(4) "Clean energy" means energy utilizing energy produced by wind, solar energy, landfill gas, geothermal resources, ocean thermal energy conversion, quantifiable energy conservation measures, tidal energy, wave energy, biomass, biofuels, or hydrogen fuels derived from renewable sources, excluding (A) any fossil fuel based energy production, including but not limited to, clean coal, clean diesel, natural gas and hydrogen from natural gas, (B) any nuclear based energy production, (C) waste to energy via combustion or incineration, or/and (D) other technologies that are detrimental to human health.*~~

~~*(5) "Clean technology business" means a business in which at least seventy-five percent of all business activities carried on during the tax year are directly related to one or more of the following activities:*~~

~~*(A) research and development and/or associated manufacturing applying scientific advances to the production, distribution or storage of clean energy;*~~

~~*(B) research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable materials and products powered by clean energy, including but not limited to single passenger vehicles and fueling infrastructure;*~~

~~*(C) research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable techniques, materials and products that materially improve energy efficiency, water conservation or air quality;*~~

~~*(D) research and development, manufacture and/or installation of solar panels:*~~

~~*or*~~

~~*(c) In order to be eligible for the payroll expense tax exclusion authorized under this Section, persons wishing to claim the exclusion must:*~~

~~*(1) Complete and submit an initial application to the Director of the Department of the Environment for review and evaluation.*~~

~~*(2) After approval, file an annual affidavit with the Department of the Environment affirming that they continue to meet the eligibility criteria set forth in regulations adopted by the Department of the Environment. The affidavit must be filed with the Department of the Environment on or before January 31 of every year after the year the application is first approved.*~~

~~*(3) Maintain a reasonable method of documentation that can be reviewed or verified objectively that tracks how employees whose compensation qualifies for the payroll expense tax exclusion spend their time at work, and provide such documentation to the Tax Collector upon request.*~~

~~*(4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the amount of tax liability shown on the return after claiming the exclusion provided for in this Section.*~~

~~*(5) For clean technology businesses in business sectors eligible for Green Business recognition from the City under Chapter 15 of the Environment Code and implementing regulations, qualify as a Green Business, and (2) complete and submit all required applications for Green Business recognition at least ninety days prior to the close of the tax year for which the payroll tax exemption is requested.*~~

~~*(d) The Director of the Department of the Environment shall:*~~

~~*(1) No later than the effective date of this ordinance, after a public hearing, adopt rules, regulations and forms regarding eligibility and the application process for the payroll tax expense exclusion. The Director of the Department of the Environment may amend such rules, regulations and forms from time to time as necessary.*~~

~~*(2) Review all applications for completeness and if an application is approved issue a certificate of eligibility to the applicant. The Director's decision on the application shall be final.*~~

~~*(3) Provide the Tax Collector with a list of persons eligible to claim the tax exclusion authorized under this Section for the preceding tax year by March 1 of each year. The Tax Collector shall grant or deny the tax exclusion on the basis of the Department of the Environment's determination along with the review, at the Tax Collector's option, of the documentation maintained by the employer under Subsection (c)(3) of this Section.*~~

~~*(e) The clean technology exclusion authorized under this Section shall be available to and may be taken by a person for each tax year that person holds a valid certificate of eligibility for a period of ten years from the effective date of this Section or the commencement of the person's clean technology business in the City, whichever is later. The date the Tax Collector first received the person's application for a business registration certificate for the person's clean technology business shall be presumed to be the date of commencement of such business unless the person establishes a different commencement date to the satisfaction of the Tax Collector.*~~

~~*(f) The clean technology exclusion authorized under this Section shall expire on the fifteenth anniversary date of the effective date of this Section. A person may not use or claim any unused portion of the ten year clean technology exclusion after the expiration date of this Section. Unless exempted under Sections 906 of this Article, every person engaging in a clean technology business in the City shall pay the tax imposed under this Article on the full amount of the person's payroll expense attributable to the City from and after the expiration of this Section.*~~

~~*(g) If a person's calculated liability for the Payroll Expense Tax does not exceed the ceiling specified in Section 905-A for the tax year after applying the clean technology exclusion under this Section, the person shall be exempt from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.*~~

~~*(h) The effective date of this Section 906.2 shall be January 1, 2006 except that the amendments to Section 906.2 made by Ordinance 313-08 do not apply to tax years beginning before January 1, 2009.*~~

~~*(i) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the clean technology exclusion authorized under this Section is available that sets forth aggregate information on the dollar value of the clean technology exclusions taken each year, the number of businesses taking the exclusion, the change in the number of clean technology businesses engaging in business in the City, and any identifiable increase or decrease in the number of jobs in the clean technology business sector compared to the number of jobs in the clean technology business sector for the immediately preceding calendar year.*~~

~~*(j) The Assessor-Recorder shall submit an annual report to the Board of Supervisors for each year for which the clean technology exclusion authorized under this Section is available that sets forth any identifiable increases in property taxes resulting from clean technology businesses location, relocation or expansion to or within the City.*~~

~~*(k) The Controller, after three years from the enactment of this Ordinance, shall perform an assessment and review of the effect of the clean technology tax exclusion. Based on such assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, and may include but is not limited to, data contained in the annual reports to the Board of Supervisors as required by subsections (i) and (j) of this Section.*~~

~~*(l) A misrepresentation or misstatement by any person regarding eligibility for the clean technology payroll expense tax exclusion authorized by this section that results in the underpayment or underreporting of the payroll expense tax shall be subject to penalties as provided in Section 6.17-2 of Article 6 of the San Francisco Business and Tax Administrative Code.*~~

~~***SEC. 906.3. CENTRAL MARKET STREET AND TENDERLOIN AREA PAYROLL EXPENSE TAX EXCLUSION.***~~

~~*(a) An exclusion from the payroll expense tax shall be allowed for each person who maintains a fixed place of business within the Central Market Street and Tenderloin Area for payroll expense attributable to that fixed location; provided, however, that in no event shall the tax exclusion reduce a person's tax liability to less than the person's Base Year payroll expense tax liability.*~~

~~*(b) For purposes of this Section, the following terms shall have the meanings set forth below:*~~

~~*(1) "Central Market Street and Tenderloin Area" means the area located in downtown San Francisco, generally including: parcels fronting the south side of Market Street from Eleventh Street to Sixth Street; a portion of the parcels fronting the south side of Market Street from Sixth Street to Fifth Street (odd numbered addresses from 999 to 933 Market Street); parcels fronting the north side of Market Street from Van Ness Avenue to Eighth Street; 875 Stevenson Street; and parcels in the area bordered by: Ellis Street from Polk Street to Mason Street (south side only); Mason Street, from Ellis Street to Market Street (west side only); Market Street, from Mason Street to Charles J. Brenham Place (north side only); Charles J. Brenham Place, from Market Street to McAllister Street (east side only); McAllister Street, from Charles J. Brenham Place to Larkin Street (north side only); Larkin Street, from McAllister Street to Eddy Street (east side only); Eddy Street, from Larkin Street to Polk Street (north side only); and Polk Street, from Eddy Street to Ellis Street (east side only). The exclusion applies exclusively to the following Assessor's Lots: the entirety of Blocks 0331, 0332, 0333, 0334, 0335, 0336, 0337, 0338, 0339, 0340, 0342, 0343, 0344, 0345, 0346, 0347, 0348, 0349, 0350, and 0740; Block 0813, Lots, 7, 8, 9 and 10; Block 0835, Lots 1, 2 and 3; Block 3701, Lots 50 and 59; Block 3702, Lots 1, 45, 46, 47, 48, 48A, and 53; Block 3703, Lots 1, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 74, 75, 76, 78 and 88; Block 3704, Lots 70, 69, 68, 67 and 78; Block 3507, Lots 39 and 41; Block 3508, Lots 1 and 39; Block 0355, Lots 3, 4, 5, 6, 7, 8, 9, 10 and 15; and Block 0351, Lots 1, 22, 39, 41, 46, 47, 49 and 51.*~~

~~*(2) "Base Year" means the 2010 tax year for a person who maintains a fixed place of business in the Central Market Street and Tenderloin Area on the effective date of this ordinance, provided that the person maintained a fixed place of business in the Area for the entirety of such tax year. If the person did not maintain a fixed place of business in the Area for the entirety of 2010, then the first full tax year that person maintains a fixed place of business in the Area shall be the Base Year. For a person who moves a business to the Central Market Street and Tenderloin Area from another part of San Francisco, Base Year means that person's full tax year for the year prior to entering into a lease agreement or buying real property in the Area, provided that person was doing business in San Francisco for the entirety of such tax year. For a person who commences to maintain a fixed place of business in San Francisco after the effective date of this ordinance, Base Year means that person's first full tax year in the Area.*~~

~~*(c) In order to be eligible for the payroll expense tax exclusion authorized under this Section, persons wishing to claim the exclusion must:*~~

~~*(1) Complete and submit an initial application to the Office of Economic and Workforce Development for review and evaluation. The Office of Economic and Workforce Development will use this application to verify that applicants claiming the payroll expense tax exclusion under this Section meet the eligibility requirements outlined in this subsection (c). The Office of Economic and Workforce Development and the Office of the Treasurer and Tax Collector shall prescribe the form of the application and, consistent with this ordinance, the rules and regulations regarding eligibility for the Central Market Street and Tenderloin Area payroll expense tax exclusion, which shall include participation in the City's First Source Hiring Program as defined in Section 83.4 of the Administrative Code.*~~

~~*(2) File an annual affidavit with the Office of Economic and Workforce Development affirming that they continue to meet the eligibility criteria as determined by the Office of Economic and Workforce Development. The annual affidavit should detail the total number of individuals hired*~~

~~*during the year, the number of individuals who were referred by the San Francisco Workforce Development System during the year, and the duration of employment for each individual hired during the year. The affidavit must be filed with the Office of Economic and Workforce Development on or before December 31 of each year subsequent to the Office of Economic and Workforce Development's initial approval of the application.*~~

~~*(3) Maintain records and documents in a manner acceptable to the Tax Collector. Such records and documents must objectively substantiate any exclusion claimed under this Section and be provided to the Tax Collector upon request.*~~

~~*(4) File a timely annual Payroll Expense Tax Return and affidavit with the Tax Collector regardless of the amount of tax liability, if any, shown on the return after claiming the exclusion provided for in this Section.*~~

~~*(5) Any person whose annual payroll expense exceeds one million dollars ($1,000,000) shall enter into a binding Community Benefit Agreement with the City Administrator in order to be eligible for the payroll expense tax exclusion under this Section. Such Community Benefit Agreement may include commitments to engage in community activities in the Central Market Street and Tenderloin Area as well as participation in workforce development opportunities.*~~

~~*(d) The Office of Economic and Workforce Development shall:*~~

~~*(1) Together with the Office of the Treasurer and Tax Collector, adopt rules, regulations and forms regarding eligibility and the application process for the Central Market Street and Tenderloin Area payroll expense tax exclusion. The rules, regulations and forms may be amended from time to time as necessary.*~~

~~*(2) Review all applications for completeness and upon approval, issue a certificate of eligibility to the applicant. The decision of the Office of Economic and Workforce Development regarding eligibility for the exclusion may not be appealed by an applicant.*~~

~~*(3) Provide the Tax Collector with a list of persons eligible to claim the tax exclusion authorized under this Section for the preceding tax year by March 1 of each year.*~~

~~*(e) The Tax Collector shall verify that any exclusion claimed pursuant to this Section is appropriate.*~~

~~*(f) The Central Market Street and Tenderloin Area exclusion authorized under this Section shall be available to and may be taken by each person for each tax year that person holds a valid certificate of eligibility for a period not to exceed six years from the effective date of this ordinance or the commencement of the person's business in the Central Market Street and Tenderloin Area, whichever is later. The date the Tax Collector first received the person's application for a business registration certificate for the person's Central Market Street and Tenderloin Area business shall be presumed to be the date of commencement of such business unless the person establishes a different commencement date to the satisfaction of the Tax Collector.*~~

~~*(g) The Central Market Street and Tenderloin Area exclusion authorized under this Section shall expire on the eighth anniversary date of the effective date of this Section. A person may not use or claim any unused portion of the Central Market Street and Tenderloin Area exclusion after the expiration date of this Section. Unless exempted under Section 906 of this Article, every person engaging in a business in the Central Market Street and Tenderloin Area in the City shall pay the tax imposed under this Article on the full amount of the person's payroll expense attributable to the City from and after the expiration of this Section.*~~

~~*(h) If a person's calculated liability for the payroll expense tax does not exceed the ceiling specified in Section 905-A for the tax year after applying the Central Market Street and Tenderloin Area exclusion under this Section, the person shall be exempt from payment of the payroll expense tax for that tax year as provided in Section 905-A.*~~

~~*(i) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the Central Market Street and Tenderloin Area exclusion authorized under this Section is*~~

~~*available that sets forth aggregate information on the dollar value of the Central Market Street and Tenderloin Area exclusions taken each year, the number of businesses taking the exclusion and the change in the number of businesses located in the Central Market Street and Tenderloin Area of the City.*~~

~~*(j) The Office of the City Administrator shall submit an annual report to the Board of Supervisors for each year for which the Central Market Street and Tenderloin Area exclusion authorized under this Section is available that sets forth any and all Community Benefit Agreements that have been entered into with the Office of the City Administrator during that year.*~~

~~*(k) The Assessor-Recorder shall submit an annual report to the Board of Supervisors for each year for which the Central Market Street and Tenderloin Area exclusion authorized under this Section is available that sets forth any identifiable increases in property value resulting from businesses' location, relocation or expansion to or within the Central Market Street and Tenderloin Area.*~~

~~*(l) The Controller, not later than three years after the effective date of this ordinance, shall perform an assessment and review of the effect of the Central Market Street and Tenderloin Area payroll expense tax exclusion on the Central Market Street and Tenderloin Area. Based on such assessment and review the Controller shall prepare and submit an analysis to the Board of Supervisors. The analysis shall be based on factors that the Controller deems relevant, and may include, but shall not be limited to, data contained in the annual reports to the Board of Supervisors as required by subsections (i), (j) and (k) of this Section.*~~

~~*(m) The Central Market Street and Tenderloin Area payroll expense tax exclusion set forth in this Section may not be claimed concurrently with any other payroll expense tax exclusion.*~~

~~*(n) A misrepresentation or misstatement by any person regarding eligibility for the Central Market Street and Tenderloin Area payroll expense tax exclusion authorized by this Section that results in the underpayment or underreporting of the payroll expense tax shall be subject to penalties.*~~

~~***SEC. 906.3-1. CENTRAL MARKET STREET AND TENDERLOIN AREA CITIZEN'S ADVISORY COMMITTEE.***~~

~~*(a) There shall be a Central Market Street and Tenderloin Area Citizen's Advisory Committee (the "Citizen's Advisory Committee").*~~

~~*(b) The Citizen's Advisory Committee shall be an advisory body whose purpose is to make recommendations to the Mayor, Board of Supervisors, City Administrator, and Office of Economic and Workforce Development on policies and programs that mitigate the effects of development, bolster economic development, local employment, and community sustainability, and seek to stabilize and protect existing tenants, community based organizations, and small businesses in and around the Central Market Street and Tenderloin Area.*~~

~~*(c) Duties of the Citizen's Advisory Committee shall include:*~~

~~*(1) Advise the City Administrator of community issues in order to better align the Community Benefit Agreements called for under the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion in Section 906.3 of this Code, with the community needs.*~~

~~*(2) Make recommendations to the City Administrator about terms and conditions in the Community Benefit Agreements called for under the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion.*~~

~~*(3) Provide a report in March and October of each year to the Board of Supervisors regarding the implementation and execution of the Community Benefit Agreements called for under the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion. The report shall include, at minimum, a summary of the Citizen's Advisory Committee's recommendations and votes regarding proposed Community Benefit Agreements, a summary of actions taken by the City Administrator in response to the Citizen's Advisory Committee's recommendations, and a list of vacant seats on the Citizen's Advisory Committee.*~~

~~*(4) Make recommendations to the Board of Supervisors and the Office of Economic and Workforce Development on policies, initiatives, and programs that bolster economic development, local employment, and community sustainability and seek to stabilize and protect existing tenants, community based organizations, and small businesses in and around the Central Market Street and Tenderloin Area.*~~

~~*(5) Advise the Mayor, Board of Supervisors, and City Administrator on the creation of a community development fund that may support workforce development, community infrastructure and programs to mitigate potential displacement of small businesses, community based organizations, and tenants.*~~

~~*(6) Help facilitate partnerships between persons claiming the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion and community organizations, local schools, and small businesses.*~~

~~*(7) Hold public hearings regarding Community Benefit Agreements as set forth in subsection 906.3-1(i).*~~

~~*(d) The Citizen's Advisory Committee shall be composed of five members appointed by the Board of Supervisors:*~~

~~*(1) Seat 1 shall be held either by a person with expertise in job creation or workforce development or by a person who is a resident of the Central Market Street and Tenderloin Area or Adjacent Area.*~~

~~*(2) Seat 2 shall be held either by a person who represents a community-based organization or provides direct services to the Central Market Street and Tenderloin Area or Adjacent Area or by a person who is a resident of the Central Market Street and Tenderloin Area or Adjacent Area.*~~

~~*(3) Seat 3 shall be held either by a person with expertise on homelessness, transitional age youth, or supportive housing, and familiarity with the Central Market Street and Tenderloin Area*~~

~~*or Adjacent Area or by a person who is a resident of the Central Market Street and Tenderloin Area or Adjacent Area.*~~

~~*(4) Seats 4 and 5 shall be held by residents of the Central Market Street and Tenderloin Area or Adjacent Area with expertise or life experience involving homelessness or affordable housing.*~~

~~*(e) For purposes of this Section 906.3-1, "Adjacent Area" shall mean the area in District 6, bounded on the southern side by 13th Street and Townsend Street.*~~

~~*(f) The terms of members of the Citizen's Advisory Committee in office on the effective date of the ordinance in Board of Supervisors File No. 170741 and whose seats were not eliminated by that ordinance shall continue; provided that the terms then in effect for members in renumbered Seats 1 and 3 shall end at noon on November 2, 2017; and the terms then in effect for members in renumbered Seats 2, 4, and 5 shall end at noon on November 2, 2019. The Board of Supervisors shall appoint members to new terms, which shall commence on the expiration of the previous terms. All of the new terms shall end on January 31, 2021. All members shall serve at the pleasure of the Board of Supervisors and may be removed by the Board of Supervisors at any time.*~~

~~*(g) Once each year, the Citizen's Advisory Committee members shall select such officer or officers as deemed necessary by the Citizen's Advisory Committee. The Citizen's Advisory Committee shall promulgate such rules and regulations as are necessary for the conduct of its business under this Section 906.3-1. In the event a vacancy occurs, a successor shall be appointed to fill the vacancy consistent with the process and requirements to appoint the previous appointee. When a vacancy occurs for a reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his or her predecessor. Any member who misses four meetings within a twelve-month period, without the approval of the Citizen's Advisory Committee at or before each missed meeting, shall be deemed to have resigned from the Citizen's Advisory Committee ten days after the fourth unapproved absence. The City Administrator shall inform the Clerk of the Board of any such resignation.*~~

~~*(h) The Citizen's Advisory Committee shall comply with all applicable public records and meetings laws and shall be subject to all applicable conflict-of-interest provisions in State and local law.*~~

~~*(i) Duties of the City Administrator.*~~

~~*(1) The City Administrator shall provide administrative support for the Citizen's Advisory Committee, and shall arrange for the Citizen's Advisory Committee to meet no less than four times each calendar year.*~~

~~*(2) At least 15 days before entering into negotiations regarding the terms of a Community Benefit Agreement, the City Administrator shall inform the members of the Citizen's Advisory Committee in writing about the initiation of negotiations. After receiving the written notice, the Citizen's Advisory Committee may submit written recommendations to the City Administrator regarding the possible terms of the Community Benefit Agreement.*~~

~~*(3) Within five days of reaching tentative agreement regarding the terms of a Community Benefit Agreement, the City Administrator shall transmit copies of the proposed agreement to the Citizen's Advisory Committee, and shall coordinate with the members of the Citizen's Advisory Committee to convene a meeting to review the agreement. At any such meeting, the Citizen's Advisory Committee may recommend that the City Administrator execute the Community Benefit Agreement, recommend that the City Administrator not execute the Community Benefit Agreement, or make no recommendation. If the Citizen's Advisory Committee does not recommend that the City Administrator execute the Community Benefit Agreement, the Committee shall state the reasons therefor. The City Administrator shall not execute any Community Benefit Agreement until after the Citizen's Advisory Committee has held at least one meeting to review and provide recommendations regarding the agreement; provided that the City Administrator may execute the agreement if the Citizen's Advisory Committee fails to meet within 45 days after the transmission of the proposed agreement to the Citizen's Advisory Committee. Within five days after executing the agreement, the City Administrator*~~

~~*shall transmit the agreement to the Citizen's Advisory Committee with a report describing the City Administrator's response to each of the Citizen's Advisory Committee's recommendations, if any.*~~

~~*(4) If the Citizen's Advisory Committee fails to provide a biannual report to the Board of Supervisors in March or October as required in subsection 906.3-1(c)(3), the City Administrator shall prepare and submit a report to the Board of Supervisors providing the same information by April 15 or November 15, respectively.*~~

~~*(j) Unless the Board of Supervisors by ordinance extends the term of the Citizen's Advisory Committee, this Section 906.3-1 shall expire by operation of law, and the Citizen's Advisory Committee shall terminate, on January 31, 2021. In that event, after that date, the City Attorney shall cause this Section 906.3-1 to be removed from the Business and Tax Regulations Code.*~~

~~***SEC. 907. PAYMENTS, RETURNS, INSTALLMENT PAYMENTS AND EXTENSIONS.***~~

~~*(a) Payments, returns, installment payments and extensions for persons subject to this Article shall be as prescribed in the common administrative provisions set forth in Article 6.*~~

~~*(b) For tax years commencing after December 31, 2013, a combined group as described in Section 956.3 of Article 12-A-1 must file a single payroll expense tax return; the combined group must choose a single person to file the return on its behalf. Each person within the combined group engaging in business in the City must provide a power of attorney to the person filing the return, authorizing the person filing the return to file said return and to act on behalf of each person with respect to payments, refunds, audits, resolutions, and any other items related to the tax liability reflected in the return. The power of attorney shall be substantially in a form prescribed or approved by the Tax Collector. Each return filed by a combined group constitutes a combined return under this Article and Article 6. The person filing any combined return shall pay the tax liability reflected on the return and any liability determined on audit at the time and in the manner set forth for returns and liabilities in Article 6. The payroll expense tax liability of each person within a combined group,*~~

~~*including any applicable exemptions or exclusions, shall be computed as if that person was filing its own separate return. The total liability on the combined return shall be the sum of the liabilities of each person within the combined group.*~~

~~***SEC. 908. SAVINGS CLAUSE.***~~

~~*No section, clause, part or provision of this Article shall be construed as requiring the payment of any tax for engaging in a business or the doing of an act when such payment or act would constitute an unlawful burden upon or an unlawful interference with interstate or foreign commerce, or which payment or act would be in violation of the United States Constitution or a statute of the United States or of the California Constitution or a statute of the State of California. If any section, clause, part or provision of this Article, or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of this Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Article are severable.*~~

~~***SEC. 909. AMENDMENT OF ORDINANCE.***~~

~~*The Board of Supervisors may amend or repeal Article 12-A of the Business and Tax Regulations Code without a vote of the people except as limited by Article XIIIC of the California Constitution.*~~

Section 5. The Business and Tax Regulations Code is hereby amended by deleting Sections 959 and 961 and revising Sections 952, 953, 953.1, 953.2, 953.3, 953.4, 953.5, 953.6, 953.7, 953.8, 953.9, 954, 954.1, 956.2, 960, and 965 of Article 12-A-1, to read as follows:

SEC. 952. DEFINITIONS.

Except where the context otherwise requires, the terms used in this Article *12-A-1* shall have the meanings given to them in Section~~s~~ 6.2-1 et seq. of Article 6~~ *and in Article 12-A*~~. *For purposes of this Article 12-A-1, "pass-through entity" includes a trust, partnership, corporation described in Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited liability partnership, professional corporation, and any other person or entity (other than a disregarded entity for federal income tax purposes) which is not subject to the income tax imposed by Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or which is allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such person or entity.*

SEC. 953. IMPOSITION OF GROSS RECEIPTS TAX.

(a) Except as otherwise provided under this Article *12-A-1*, the City imposes and every person engaging in business within the City shall pay an annual gross receipts tax measured by the person's gross receipts from all taxable business activities attributable to the City. A person's liability for the gross receipts tax shall be calculated according to Sections 953.1 through 953.7.

(b) The gross receipts tax is a privilege tax imposed upon persons engaging in business within the City for the privilege of engaging in a business or occupation in the City. The gross receipts tax is imposed for general governmental purposes. Proceeds from the tax shall be deposited in the City's general fund and may be expended for any purposes of the City.

(c) The voters intend by adopting this measure to authorize application of the gross receipts tax in the broadest manner consistent with the provisions of this Article *12-A-1* and the

requirements of the California Constitution, the United States Constitution, and any other applicable provision of federal and state law.

~~*(d) The gross receipts tax imposed under this Article is in addition to the payroll expense tax imposed under Article 12-A. Persons not otherwise exempt from the gross receipts tax or payroll expense tax shall pay both taxes. Persons exempt from either the gross receipts tax or payroll expense tax, but not both, shall pay the tax from which they are not exempt.*~~

(*de*) ~~*Except for subsection (d) of this Section, t*~~*T*he tax on Administrative Office Business Activities imposed by Section 953.8 is intended as a complementary tax to the gross receipts tax, and shall be considered a gross receipts tax for purposes of this Article *12-A-1*.

~~*(f) For a five year period beginning in 2015, the Treasurer, Controller, and Chief Economist shall jointly prepare an annual report to the Mayor and Board of Supervisors on the implementation of the measure. The report shall include projections of collections of the gross receipts tax, compare these projections to those anticipated in preparation of the measure, and outline impacts of the measure on San Francisco's economy and business community. The report may recommend policy, administrative, or technical changes for the consideration of the Mayor and Board of Supervisors that further the goals established in the measure.*~~

SEC. 953.1. GROSS RECEIPTS TAX APPLICABLE TO RETAIL TRADE; WHOLESALE TRADE; AND CERTAIN SERVICES.

(a) The ~~*base*~~ gross receipts tax rate*s* ~~*provided by this Section is*~~ applicable to the business activities of retail trade, wholesale trade, and certain services~~*. Commencing on the operative date of the Gross Receipts Tax Ordinance, the Controller shall compute the tax rate in accordance with Section 959, but the base tax rate provided by this Section is*~~*are*:

(1) For tax years beginning on or after January 1, 2018 and ending on or before December 31, 2020:

0.075% (e.g., $0.75 per $1,000) for gross receipts between $0 and $1,000,000

0.1~~00~~% (e.g., $1 per $1,000) for gross receipts between $1,000,001 and $2,500,000

0.135% (e.g., $1.35 per $1,000) for gross receipts between $2,500,001 and $25,000,000

0.16~~0~~% (e.g., $1.60 per $1,000) for gross receipts over $25,000,000

(2) For tax years beginning on or after January 1, 2021:

0.105% (e.g., $1.05 per $1,000) for taxable gross receipts between $0 and $1,000,000

0.14% (e.g., $1.40 per $1,000) for taxable gross receipts between $1,000,000.01 and $2,500,000

0.189% (e.g., $1.89 per $1,000) for taxable gross receipts between $2,500,000.01 and $25,000,000

0.224% (e.g., $2.24 per $1,000) for taxable gross receipts over $25,000,000

* * * *

*(g) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (*City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, the phrase "over $25,000,000" in Section 953.1(a)(2) shall be replaced with the phrase "between $25,000,000.01 and $50,000,000" and there shall be added to the rate tiers in that Section an additional rate tier for taxable gross receipts over $50,000,000 with a rate of 0.399%. This additional rate tier shall continue in effect for 15 tax*

years, after which the rate tiers shall return to what the rate tiers would have been absent the increase in this Section 953.1(g).

SEC. 953.2. GROSS RECEIPTS TAX APPLICABLE TO MANUFACTURING; TRANSPORTATION AND WAREHOUSING; INFORMATION; BIOTECHNOLOGY; CLEAN TECHNOLOGY; AND FOOD SERVICES.

(a) The ~~*base*~~ gross receipts tax rate*s* ~~*provided by this Section is*~~ applicable to the business activities of manufacturing, transportation and warehousing, information, biotechnology, clean technology, and food services~~. *Commencing on the operative date of the Gross Receipts Tax Ordinance, the Controller shall compute the tax rate in accordance with Section 959, but the base tax rate provided by this Section*~~ ~~*is*~~*are*:

(1) For tax years beginning on or after January 1, 2018 and ending on or before December 31, 2020:

0.125% (e.g., $1.25 per $1,000) for gross receipts between $0 and $1,000,000

0.205% (e.g., $2.05 per $1,000) for gross receipts between $1,000,001 and $2,500,000

0.37~~0~~% (e.g., $3.70 per $1,000) for gross receipts between $2,500,001 and $25,000,000

0.475% (e.g., $4.75 per $1,000) for gross receipts over $25,000,000

(2) For tax years beginning on or after January 1, 2021:

0.175% (e.g., $1.75 per $1,000) for taxable gross receipts between $0 and $1,000,000

0.287% (e.g., $2.87 per $1,000) for taxable gross receipts between $1,000,000.01 and $2,500,000

0.518% (e.g., $5.18 per $1,000) for taxable gross receipts between $2,500,000.01 and $25,000,000

0.665% (e.g., $6.65 per $1,000) for taxable gross receipts over $25,000,000

* * * *

(e) For purposes of this Article *12-A-1:*~~.~~

(1) ~~*b*~~*B*iotechnology includes the activity of *conducting biotechnology research and experimental development, and operating laboratories for biotechnology research and experimental development, using DNA, cells, and/or bioprocessing techniques, as well as the application thereof to the development of therapeutics, diagnostic products and/or devices to improve human health, animal health, and agriculture. For purposes of this Section 953.2(e)(1):*

(A) "DNA" is a nucleic acid sequence, or fragment thereof, that contains the genetic information for cell growth, division, and function. Examples of DNA include recombinant DNA, RNA, mRNA, antisense, RNAi, genes and ESTs.

(B) "Cells" are membrane bound structures containing biomolecules, such as nucleic acids, proteins, and polysaccharides. This definition includes both prokaryotic (bacterial) and eukaryotic (animal or plant) cells. Examples include primary cells, transformed or cultured cells, stem cells, iPS, ESCs, fused cells and cell lines.

(C) "Bioprocessing" is the use of microbial, plant, or animal cells or portions thereof, for the production of therapeutics or diagnostics. Bioprocessing includes the extraction of compounds from biomaterials; reaction of biomaterials, such as microbial fermentation, cell culture, cell fusion or biotransformation by enzymes; and separation of product from biomaterials using filtration, purification, precipitation, centrifugation, solvents, chromatography or other means.

(2) ~~*biotechnology business as defined in Section 906.1 of Article 12-A, and c*~~*C*lean technology includes the activity of ~~*clean technology business as defined in Section 906.2 of Article 12-A*~~*a business, as defined in Section 6.2-5 of Article 6 of the Business and Tax Regulations Code, in which at least 75% of all business activities carried on during the tax year are directly related to one or more of the following activities:*

(A) Research and development and/or associated manufacturing applying scientific advances to the production, distribution or storage of clean energy.

(B) Research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable materials and products powered by clean energy, including but not limited to single passenger vehicles and fueling infrastructure.

(C) Research and development and/or associated manufacturing applying scientific advances to prototype or commercially viable techniques, materials and products that materially improve energy efficiency, water conservation or air quality.

(D) Research and development, manufacture and/or installation of solar panels.

(3) For purposes of Section 953.2(e)(2), "clean energy" means energy utilizing energy produced by wind, solar energy, landfill gas, geothermal resources, ocean thermal energy conversion, quantifiable energy conservation measures, tidal energy, wave energy, biomass, biofuels, or hydrogen fuels derived from renewable sources, excluding:

(A) any fossil fuel based energy production, including but not limited to, clean coal, clean diesel, natural gas and hydrogen from natural gas;

(B) any nuclear based energy production;

(C) waste to energy via combustion or incineration; or/and

(D) other technologies that are detrimental to human health.

* * * *

*(h) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (*City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year*

following the date on which such court decision becomes final, the phrase "over $25,000,000" in Section 953.2(a)(2) shall be replaced with the phrase "between $25,000,000.01 and $50,000,000" and there shall be added to the rate tiers in that Section an additional rate tier for taxable gross receipts over $50,000,000 with a rate of 1.165%. This additional rate tier shall continue in effect for 15 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the increase in this Section 953.2(h).

SEC. 953.3. GROSS RECEIPTS TAX APPLICABLE TO ACCOMMODATIONS; UTILITIES; AND ARTS, ENTERTAINMENT AND RECREATION.

(a) The ~~*base*~~ gross receipts tax rate*s* ~~*provided by this Section is*~~ applicable to ~~*each of*~~ the ~~*following*~~ business activities~~:~~ *of* accommodations; utilities; and arts, entertainment and recreation~~. *Commencing on the operative date of the Gross Receipts Tax Ordinance, the Controller shall compute the tax rate in accordance with Section 959, but the base tax rate provided by this Section is*~~*are*:

(1) For tax years beginning on or after January 1, 2018 and ending on or before December 31, 2020:

0.3~~00~~% (e.g., $3 per $1,000) for gross receipts between $0 and $1,000,000

0.325% (e.g., $3.25 per $1,000) for gross receipts between $1,000,001 and $2,500,000

0.325% (e.g., $3.25 per $1,000) for gross receipts between $2,500,001 and $25,000,000

0.4~~00~~% (e.g., $4 per $1,000) for gross receipts over $25,000,000

(2) For tax years beginning on or after January 1, 2021:

0.42% (e.g., $4.20 per $1,000) for taxable gross receipts between $0 and $1,000,000

0.455% (e.g., $4.55 per $1,000) for taxable gross receipts between $1,000,000.01 and $2,500,000

0.455% (e.g., $4.55 per $1,000) for taxable gross receipts between $2,500,000.01 and $25,000,000

0.56% (e.g., $5.60 per $1,000) for taxable gross receipts over $25,000,000

* * * *

*(h) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (*City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, the phrase "over $25,000,000" in Section 953.3(a)(2) shall be replaced with the phrase "between $25,000,000.01 and $50,000,000" and there shall be added to the rate tiers in that Section an additional rate tier for taxable gross receipts over $50,000,000 with a rate of 0.985%. This additional rate tier shall continue in effect for 15 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the increase in this Section 953.3(h).*

SEC. 953.4. GROSS RECEIPTS TAX APPLICABLE TO PRIVATE EDUCATION AND HEALTH SERVICES; ADMINISTRATIVE AND SUPPORT SERVICES; AND MISCELLANEOUS BUSINESS ACTIVITIES.

(a) The ~~*base*~~ gross receipts tax rate*s* ~~*provided by this Section is*~~ applicable to the business activities of private education and health services, ~~*and*~~ administrative and support services*,* ~~*This rate also applies to*~~ *and* all business activities not otherwise exempt and not elsewhere subjected to a gross receipts tax rate or an administrative office tax by this Article *12-A-1*~~*. Commencing on the operative date of the Gross Receipts Tax Ordinance, the*~~

~~Controller shall compute the tax rate in accordance with Section 959, but the base tax rate provided by this Section~~ ~~is~~are:

(1) For tax years beginning on or after January 1, 2018 and ending on or before December 31, 2020:

0.525% (e.g., $5.25 per $1,000) for gross receipts between $0 and $1,000,000

0.55~~0~~% (e.g., $5.50 per $1,000) for gross receipts between $1,000,001 and $2,500,000

0.6~~00~~% (e.g., $6 per $1,000) for gross receipts between $2,500,001 and $25,000,000

0.65~~0~~% (e.g., $6.50 per $1,000) for gross receipts over $25,000,000

(2) For tax years beginning on or after January 1, 2021:

0.735% (e.g., $7.35 per $1,000) for taxable gross receipts between $0 and $1,000,000

0.77% (e.g., $7.70 per $1,000) for taxable gross receipts between $1,000,000.01 and $2,500,000

0.84% (e.g., $8.40 per $1,000) for taxable gross receipts between $2,500,000.01 and $25,000,000

0.91% (e.g., $9.10 per $1,000) for taxable gross receipts over $25,000,000

* * * *

*(e) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (*City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, the phrase "over $25,000,000" in Section 953.4(a)(2) shall be replaced with the phrase "between $25,000,000.01 and $50,000,000" and there shall be added to the rate tiers in that Section an additional rate tier for taxable gross receipts*

over $50,000,000 with a rate of 1.6%. This additional rate tier shall continue in effect for 15 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the increase in this Section 953.4(e).

SEC. 953.5. GROSS RECEIPTS TAX APPLICABLE TO CONSTRUCTION.

(a) The ~~*base*~~ gross receipts tax rate*s* ~~*provided by this Section is*~~ applicable to the business activity of construction~~. *Commencing on the operative date of the Gross Receipts Tax Ordinance, the Controller shall compute the tax rate in accordance with Section 959, but the base tax rate provided by this Section*~~ ~~is~~*are*:

(1) For tax years beginning on or after January 1, 2018 and ending on or before December 31, 2020:

0.3~~00~~% (e.g., $3 per $1,000) for gross receipts between $0 and $1,000,000

0.35~~0~~% (e.g., $3.50 per $1,000) for gross receipts between $1,000,001 and $2,500,000

0.4~~00~~% (e.g., $4 per $1,000) for gross receipts between $2,500,001 and $25,000,000

0.45~~0~~% (e.g., $4.50 per $1,000) for gross receipts over $25,000,000

(2) For tax years beginning on or after January 1, 2021:

0.42% (e.g., $4.20 per $1,000) for taxable gross receipts between $0 and $1,000,000

0.49% (e.g., $4.90 per $1,000) for taxable gross receipts between $1,000,000.01 and $2,500,000

0.56% (e.g., $5.60 per $1,000) for taxable gross receipts between $2,500,000.01 and $25,000,000

0.63% (e.g., $6.30 per $1,000) for taxable gross receipts over $25,000,000

* * * *

(d) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF

Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, the phrase "over $25,000,000" in Section 953.5(a)(2) shall be replaced with the phrase "between $25,000,000.01 and $50,000,000" and there shall be added to the rate tiers in that Section an additional rate tier for taxable gross receipts over $50,000,000 with a rate of 1.105%. This additional rate tier shall continue in effect for 15 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the increase in this Section 953.5(d).*

SEC. 953.6. GROSS RECEIPTS TAX APPLICABLE TO FINANCIAL SERVICES; INSURANCE; AND PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES.

(a) The ~~*base*~~ gross receipts tax rate*s* ~~*provided by this Section is*~~ applicable to the business activities of financial services; insurance; and professional, scientific and technical services~~*. Commencing on the operative date of the Gross Receipts Tax Ordinance, the Controller shall compute the tax rate in accordance with Section 959, but the base tax rate provided by this Section*~~ ~~*is*~~*are*:

(1) For tax years beginning on or after January 1, 2018 and ending on or before December 31, 2020:

0.4~~*00*~~% (e.g., $4 per $1,000) for gross receipts between $0 and $1,000,000

0.46~~*0*~~% (e.g., $4.60 per $1,000) for gross receipts between $1,000,001 and $2,500,000

0.51~~*0*~~% (e.g., $5.10 per $1,000) for gross receipts between $2,500,001 and $25,000,000

0.56~~*0*~~% (e.g., $5.60 per $1,000) for gross receipts over $25,000,000

(2) For tax years beginning on or after January 1, 2021:

0.56% (e.g., $5.60 per $1,000) for taxable gross receipts between $0 and $1,000,000

0.644% (e.g., $6.44 per $1,000) for taxable gross receipts between $1,000,000.01 and $2,500,000

0.714% (e.g., $7.14 per $1,000) for taxable gross receipts between $2,500,000.01 and $25,000,000

0.784% (e.g., $7.84 per $1,000) for taxable gross receipts over $25,000,000

* * * *

*(f) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (*City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, the phrase "over $25,000,000" in Section 953.6(a)(2) shall be replaced with the phrase "between $25,000,000.01 and $50,000,000" and there shall be added to the rate tiers in that Section an additional rate tier for taxable gross receipts over $50,000,000 with a rate of 1.384%. This additional rate tier shall continue in effect for 15 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the increase in this Section 953.6(f).*

SEC. 953.7. GROSS RECEIPTS TAX APPLICABLE TO REAL ESTATE AND RENTAL AND LEASING SERVICES.

(a) The ~~*base*~~ gross receipts tax rate*s* ~~*provided by this Section is*~~ applicable to the business activities of real estate and rental and leasing services~~. *Commencing on the operative*~~

~~*date of the Gross Receipts Tax Ordinance, the Controller shall compute the tax rate in accordance with Section 959, but the base tax rate provided by this Section*~~ ~~is~~*are*:

(1) For tax years beginning on or after January 1, 2018 and ending on or before December 31, 2020:

0.285% (e.g., $2.85 per $1,000) for gross receipts between $0 and $1,000,000

0.285% (e.g., $2.85 per $1,000) for gross receipts between $1,000,001 and $5,000,000

0.3~~00~~% (e.g., $3.00 per $1,000) for gross receipts between $5,000,001 and $25,000,000

0.3~~00~~% (e.g., $3.00 per $1,000) for gross receipts over $25,000,000

(2) For tax years beginning on or after January 1, 2021:

0.399% (e.g., $3.99 per $1,000) for taxable gross receipts between $0 and $1,000,000

0.399% (e.g., $3.99 per $1,000) for taxable gross receipts between $1,000,000.01 and $5,000,000

0.42% (e.g., $4.20 per $1,000) for taxable gross receipts between $5,000,000.01 and $25,000,000

0.42% (e.g., $4.20 per $1,000) for taxable gross receipts over $25,000,000

* * * *

*(d) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (*City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, the phrase "over $25,000,000" in Section 953.7(a)(2) shall be replaced with the phrase "between $25,000,000.01 and $50,000,000" and*

there shall be added to the rate tiers in that Section an additional rate tier for taxable gross receipts over $50,000,000 with a rate of 0.745%. This additional rate tier shall continue in effect for 15 tax years, after which the rate tiers shall return to what the rate tiers would have been absent the increase in this Section 953.7(d).

SEC. 953.8. TAX ON ADMINISTRATIVE OFFICE BUSINESS ACTIVITIES.

(a) Except as provided in this Section *953.8*, notwithstanding any other provision of this Article *12-A-1* and in lieu of the other taxes provided by this Article ~~*and Article 12-A*~~ for any person or combined group, ~~*commencing on the Operative Date of the Gross Receipts' Tax Ordinance,*~~ every person engaging in business within the City as an administrative office, as defined below, shall pay an annual administrative office tax measured by its total payroll expense that is attributable to the City. If a person is a member of a combined group, then its tax shall be measured by the total payroll expense of the combined group attributable to the City. Such combined group shall pay only the administrative office tax. *Except as provided in Section 953.8(i), t*~~T~~he administrative office tax rate ~~*for each tax year*~~ is 1.4*%*~~*00 percent*~~.

* * * *

(f) "Payroll expense" for purposes of this Section *953.8 means the compensation paid to, on behalf of, or for the benefit of an individual, including shareholders of a professional corporation or a Limited Liability Company ("LLC"), including salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), compensation for services to owners of pass-through entities, and any other form of compensation, who during any tax year, perform work or render services, in whole or in part in the City; and if more than one individual or shareholders of a professional corporation or members of an LLC, during any tax year performs work or renders services in whole or in part in the City, the term "Payroll Expense" means the total compensation paid including salaries, wages, bonuses,*

commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), in addition to any compensation for services to owners of pass-through entities, and any other form of compensation for services, to all such individuals and shareholders of a professional corporation or members of an LLC. For purposes of this definition of payroll expense:

(1) Any person that grants a service provider a right to acquire an ownership interest in such person in exchange for the performance of services shall include in its payroll expense for the tax year in which such right is exercised an amount equal to the excess of (A) the fair market value of such ownership interest on the date such right is exercised over (B) the price paid for such interest. This Section 953.8(f)(1) shall not apply for purposes of determining whether a person is engaging in business within the City as an administrative office, but shall apply for all other purposes of this Section 953.8.

(2) Any individual compensated in his or her capacity as a real estate salesperson or mortgage processor shall be deemed an employee of the real estate broker or mortgage broker for or under whom such individual performs services, and any compensation received by such individual, including compensation by way of commissions, shall be included in the payroll expense of such broker. For purposes of this Section 953.8(f), "real estate broker" and "mortgage broker" refer to any individual licensed as such under the laws of the State of California who engages the services of salespersons or a salesperson, or of mortgage processors or a mortgage processor, to perform services in the business which such broker conducts under the authority of his or her license; a "salesperson" is an individual who is engaged by a real estate broker to perform services, which may be continuous in nature, as a real estate salesperson under an agreement with a real estate broker, regardless of whether the individual is licensed as a real estate broker under the laws of the State of California; a "mortgage processor" is an individual who is engaged by a real estate broker or mortgage broker to perform services which may be continuous in nature, as a mortgage processor under an agreement

with such real estate broker or mortgage broker, regardless of whether the mortgage processor is also licensed as a mortgage broker under the laws of the State of California.

(3) All compensation, including all pass-through compensation for services paid to, on behalf of, or for the benefit of owners of a pass-through entity, shall be included in the calculation of such entity's payroll expense tax base for purposes of determining such entity's tax liability under this Section 953.8. For purposes of this Section 953.8(f), the "pass-through compensation for services" of a pass-through entity shall be the aggregate compensation paid by such entity for personal services rendered by all such owners, and shall not include any return on capital investment. The taxpayer may calculate the amount of compensation to owners of the entity subject to the administrative office tax in this Section 953.8, or the taxpayer may presume that, in addition to amounts reported on a W-2 form, the amount subject to the administrative office tax is, for each owner, an amount that is 200% of the average annual compensation paid to, on behalf of, or for the benefit of the employees of the pass-through entity whose compensation is in the top quartile (i.e., 25%) of the entity's employees who are based in the City; provided, the total number of employees of the entity based in the City is not less than four.~~shall have the meaning given to that term by Sections 902.1 et seq. of Article 12-A, except that Section 902.1(b) of Article 12-A shall not apply for purposes of determining whether a person is engaging in business within the City as an administrative office. Section 902.1(b) shall apply for all other purposes under this Section.~~

(4) ~~The portion of the payroll expense of a person or combined group that is attributable to the City shall be determined as set forth in Section 904 of Article 12-A.~~Where payroll expense is incurred by reason of work performed or services rendered by an individual wholly within the City, all of the payroll expense for such individual shall be attributable to the City and subject to tax under this Section 953.8. Where payroll expense is incurred by reason of work performed or services rendered by an individual partly within and partly without the City, the portion of such payroll expense attributable to the City (and subject to tax under this Section) shall be determined as follows:

(A) Except as otherwise provided in this Section 953.8(f)(4), the portion of such payroll expense attributable to the City shall be the portion of such payroll expense which the total number of working hours employed within the City bears to the total number of working hours within and without the City.

(B) If the amount of such payroll expense depends on the volume of business transacted by such individual, then the portion of such payroll expense attributable to the City shall be the portion of such payroll expense which the volume of business transacted by such individual in the City bears to the volume of business transacted by such individual within and without the City.

(C) If it is impracticable, unreasonable or improper to apportion such payroll expenses as aforesaid either because of the particular nature of the services of such individual, or on account of the unusual basis of compensation, or for any other reason, then the amount of such payroll earnings reasonably attributable to work performed or services rendered in the City shall be determined on the basis of all relevant facts and circumstances of the particular case, in accordance with any rulings or regulations issued or promulgated by the Tax Collector for the purpose.

(D) If the Tax Collector determines that the percentage of payroll expenses attributable to the City, for any one or more persons, is a relatively stable percentage, the Tax Collector may establish that percentage as a prima facie evidence of payroll expense attributable to the City; provided, that the Tax Collector shall condition the establishment of such fixed percentage upon the obligation of the taxpayer to report immediately to the Tax Collector any significant change in the taxpayer's mode of business which may impact the portion of the person's payroll expense which is attributable to the City; and, provided further, that the Tax Collector may rescind any such fixed percentage at any time by providing written notice to the taxpayer of such rescission.

* * * *

(i) If the final judicial decision in San Francisco Superior Court Case No. CGC-19-573230 (City and County of San Francisco v. ALL PERSONS INTERESTED IN THE MATTER OF

Proposition C on the November 6, 2018 San Francisco ballot, authorizing an increase in specified business taxes to fund specified homeless services in San Francisco, and all matters and proceedings related thereto*) has the effect of invalidating the Homelessness Gross Receipts Tax in Article 28 of the Business and Tax Regulations Code, then for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, the administrative office tax rate shall be 2.9%. This increased rate shall continue in effect for 15 tax years, after which the rate shall return to 1.4%.*

SEC. 953.9. PERSONS OR COMBINED GROUPS ENGAGED IN MULTIPLE BUSINESS ACTIVITIES.

If a person, or a combined group as described in Section 956.3, engages in business activities described in more than one of Sections 953.1 through 953.7, inclusive~~, of this Article~~, the rate or rates of gross receipts tax to be applied to that person or *combined* group, and the method for determining gross receipts in the City, shall be determined as follows:

(a) If more than 80*%* ~~percent~~ of its gross receipts, determined in accordance with Section 956, are derived from business activities described in only one of Sections 953.1 through 953.7, inclusive, then the rules of that applicable Section apply to all of its gross receipts derived from all business activities.

(b) If its business activities in the City are described in more than one of Sections 953.1 through 953.7, inclusive, and subsection (a) of this Section *953.9* does not apply, then such person or combined group shall separately compute the gross receipts tax for each set of business activities as provided in the Section applicable to that particular set of business activities, modified as follows:

(1) if the set of business activities described in any of Sections 953.1 through 953.7, inclusive, generates less than 20*%* ~~percent~~ of the total gross receipts of the

person or *combined* group, then the receipts and payroll of any such set of activities may be combined for all purposes related to computing the gross receipts tax with whichever set of that person's or *combined* group's activities are taxed at the highest rate;

(2) the small business exemption provided in Section 954.1 shall apply only if the sum of receipts within the City from all sets of business activities does not exceed ~~$1,000,000~~*the applicable threshold in Section 954.1* in total;

* * * *

SEC. 954. EXEMPTIONS AND EXCLUSIONS.

(a) ~~*Except as provided in subsection (b) of this Section, A*~~*a*n organization that is exempt from income taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the *California* Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503, 504, and 508 of the Internal Revenue Code of 1986, as amended, shall be exempt from taxation under this Article *12-A-1*, only so long as those exemptions continue to exist under state or federal law.

~~*(b) An organization otherwise exempt from income taxation under subsection (a) that is directly engaged within the City in an unrelated trade or business within the meaning of Section 513(a) of the Internal Revenue Code of 1986, as amended, and has, from its own operations, unrelated business taxable income within the meaning of Section 512(a)(1) of the Internal Revenue Code of 1986, as amended, shall pay the gross receipts tax on its gross receipts from its unrelated trade or business activities that are attributable to the City. If it is impracticable, unreasonable or improper to allocate such organization's gross receipts as aforesaid either because of the particular nature of the organization's unrelated trade or business or for any other reason, then the amount of gross receipts reasonably attributable to the organization's unrelated trade or business in the City shall be*~~

~~*determined on the basis of all of the relevant facts and circumstances of the particular case, in accordance with any rulings or regulations issued or promulgated by the Tax Collector for this purpose.*~~

(*b*~~*e*~~) Gross receipts as defined in Section 952.3 shall not include receipts from business activities if, and only so long as and to the extent that, the City is prohibited from taxing such receipts under the Constitution or laws of the United States or under the Constitution or laws of the State of California.

(*c*~~*d*~~) Rent Controlled Buildings Exclusion. A person subject to the tax may exclude from gross receipts in any tax year 50% ~~*percent*~~ of the total amount received from the rental of real property to tenants in occupancy at any location in the City, which is subject to limits on rent increases pursuant to the Residential Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code, Chapter 37, Section 37.1 et seq.

(*d*~~*e*~~) Exclusion of Certain Sales of Real Property. Gross receipts as defined in Section 952.3 shall not include receipts from any sales of real property with respect to which the Real Property Transfer Tax imposed by Article 12-C has been paid to the City.

(*e*~~*f*~~) For only so long as and to the extent that the City is prohibited from imposing the tax under this Article *12-A-1*, the following persons shall be exempt from the gross receipts tax:

(1) Banks and financial corporations exempt from local taxation under Article XIII, Section 27 of the California Constitution and Revenue and Taxation Code Section 23182;

(2) Insurance companies exempt from local taxation under Article XIII, Section 28 of the California Constitution;

(3) Persons engaging in business as a for-hire motor carrier of property under Revenue and Taxation Code Section 7233;

(4) Persons engaging in intercity transportation as a household goods carrier under Public Utilities Code Section 5327;

(5) Charter-party carriers operating limousines that are neither domiciled nor maintain a business office within the City under Public Utilities Code Section 5371.4; and

(6) Any person upon whom the City is prohibited under the Constitution or laws of the State of California from imposing the gross receipts tax.

~~*(g) To the extent that any taxpayer has paid a substantially similar tax to any other taxing jurisdiction on any gross receipts attributed to the City and taxed under this Article, the tax paid to such taxing jurisdiction shall be credited against the tax due under this Article; in no event shall this credit reduce the taxpayer's liability to less than zero.*~~

SEC. 954.1. SMALL BUSINESS EXEMPTION.

(a) Notwithstanding any other provision of this Article 12-A-1, a "small business enterprise," as hereinafter defined for purposes of this Article, shall be exempt from payment of the gross receipts tax, nevertheless, a small business enterprise shall pay the annual registration fee pursuant to Section 855 of Article 12.

(b) For purposes of this Article 12-A-1, the term "small business enterprise" shall mean*:* ~~*and include*~~

(1) For tax years beginning on or after January 1, 2014 and ending on or before December 31, 2020, any person or combined group, except for a lessor of residential real estate, whose gross receipts within the City ~~*for the preceding tax year*~~ did not exceed $1,000,000, adjusted annually in accordance with the increase in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics, or any successor to that index, as of December 31 of the preceding year, beginning with December 31, 2014.

(2) For tax years beginning on or after January 1, 2021, any person or combined group, except for a lessor of residential real estate, whose gross receipts within the City did not exceed $1,500,000, adjusted annually in accordance with the increase in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics, or any successor to that index, as of December 31 of the preceding year, beginning with December 31, 2021.

(c) For purposes of this Article 12-A-1, and notwithstanding any other provision of this Section 954.1, a lessor of residential real estate is a "small business enterprise" if and only if the lessor leases fewer than 4 units in any individual building. "Residential real estate" means real property where the primary use of or right to use the property is for the purpose of dwelling, sleeping or lodging other than as part of the business activity of accommodations. For purposes of this Article 12-A-1~~, *Article 12-A,*~~ and Article 12, a lessor of residential real estate is treated as a separate person with respect to each individual building in which it leases residential real estate units, notwithstanding Section 6.2-15 of Article 6, or Section 956.3 of this Article 12-A-1. The provisions of this subsection (c) apply only to leasing residential real estate units within a building, and not to any business activity related to other space, either within the same building or other buildings, which is not residential real estate. The Tax Collector is authorized to determine what constitutes a separate building and the number of units in a building.

SEC. 956.2. APPORTIONMENT OF RECEIPTS BASED ON PAYROLL.

* * * *

(e) Compensation paid in the City shall be determined as set forth in Section *953.8(f)(4)*~~*904 of Article 12-A*~~.

* * * *

(g) The apportionment provided by this Section *956.2* shall not include in either the numerator or the denominator any payroll of persons exempt from tax under subsections (a)~~,~~ ~~(b),~~ or (~~e~~*f*) of Section 954.

~~***SEC. 959. RATE OF GROSS RECEIPTS TAX: CONTROLLER COMPUTATION.***~~

~~*(a) Commencing on the operative date of the Gross Receipts Tax Ordinance, the Controller shall compute the rate of gross receipts tax for Sections 953.1 through 953.7 in accordance with subsection (b) of this Section. The Controller shall certify and publish such rates on or before September 1 of each year.*~~

~~*(b) Gross Receipts Tax Computation. The Controller shall compute the gross receipts tax rates for each tax year by multiplying each base rate in Sections 953.1 through 953.7 by the "Gross Receipts Tax Rate Adjustment Factor," which shall be determined according to the following table and formulas, but no gross receipts tax rate shall exceed the base rates provided by Sections 953.1 through 953.7.*~~

~~*Gross Receipts Tax Rate Adjustment Factor Computation Table*~~

~~*Tax Year*~~	~~*Gross Receipts Tax Rate Adjustment Factor (GADJyear)*~~
~~*2014*~~	~~$GADJ_{14} = 10\%$~~
~~*2015*~~	~~$GADJ_{15} = 25\% + EXP_{15}$~~
~~*2016*~~	~~$GADJ_{16} = 50\% + EXP_{16}$~~
~~*2017*~~	~~$GADJ_{17} = 75\% + EXP_{17}$~~
~~*2018*~~	~~$GADJ_{18} = 100\% + EXP_{18}$~~

~~*Where: "EXPyear" is the "Excess Payroll Expense Tax Revenue Factor," a percentage that reduces the gross receipts tax rate adjustment factor for a year in which the payroll expense tax rate determined under Section 903.1 of Article 12-A becomes zero, and which adjusts for excess payroll expense tax*~~

~~*revenue collected for that tax year. The Controller shall compute EXPyear according to the following table and formulas:*~~

~~*(1) In any year in which PAYRATEyear is greater than zero, where PAYRATEyear is determined under Section 903.1 of Article 12-A, EXPyear is zero.*~~

~~*(2) In the first year in which PAYRATEyear is zero, where PAYRATEyear is determined under Section 903.1 of Article 12-A, EXPyear shall be computed according to the following table and formulas. In subsequent years, GADJyear shall be the same value it was in the prior year:*~~

~~*Excess Payroll Expense Tax Revenue Factor Computation Table*~~

~~*Tax Year*~~	~~*Excess Payroll Expense Tax Revenue Factor (EXPyear)*~~
~~*2015*~~	~~$EXP_{15} = [(1.125\% + PADJ_{15}) \times (PAYTAX_{14}/PAYRATE_{14})]/(GRTAX_{14}/10\%)$~~
~~*2016*~~	~~$EXP_{16} = [(0.750\% + PADJ_{16}) \times (PAYTAX_{15}/PAYRATE_{15})]/GRTAX_{15}/25\%)$~~
~~*2017*~~	~~$EXP_{17} = [(0.375\% + PADJ_{17}) \times (PAYTAX_{16}/PAYRATE_{16})]/GRTAX_{16}/50\%)$~~
~~*2018*~~	~~$EXP_{18} = [PADJ_{18} \times (PAYTAX_{17}/PAYRATE_{17})]/(GRTAX_{17}/75\%)$~~

~~*Where: PADJyear, PAYTAXyear, and GRTAXyear are determined under Section 903.1 of Article 12-A.*~~

~~*(c) Notwithstanding any other provision of this Article, in any year in which the payroll expense tax rate determined under Section 903.1 of Article 12-A is zero, the gross receipts tax rates for that year and all future years shall be as the Controller computed for that year, except that for tax year 2021 and all future years, the rate under Section 953.7(a), for gross receipts over $25,000,000 only, shall be the sum of the rate established under this Section 959(c) and 0.025%. In no event shall the rate established under Section 953.7(a) by the preceding sentence, for gross receipts over $25,000,000, exceed 0.325%. The Controller shall certify and publish such rates by September 1 of that year.*~~

~~*(d) Notwithstanding any other provision of this Article, the gross receipts tax rates for 2019 and all future years shall be the rates in effect in tax year 2018, except that for tax year 2021 and all future years, the rate under Section 953.7(a), for gross receipts over $25,000,000 only, shall be the sum of the rate established under this Section 959(c) and 0.025%. In no event shall the rate established under Section 953.7(a) by the preceding sentence, for gross receipts over $25,000,000, exceed 0.325%. The Controller shall certify and publish such rates on or before September 1, 2019, at which time the Controller's duty to compute, certify and publish the payroll expense tax rate shall cease.*~~

SEC. 960. THE "PAYROLL EXPENSE TAX EXCLUSION" CREDIT.

(a) "Payroll Expense Tax Exclusion Credit" means the dollar amount by which a person would have been able to reduce its payroll expense tax liability pursuant to the Enterprise Zone Tax Credit under *former* Section 906A of Article 12-A, the Biotechnology Exclusion under *former* Section 906.1 of Article 12-A, and/or the Clean Technology Business Exclusion under *former* Section 906.2 of Article 12-A, as if the payroll expense tax were in full force and effect and calculated at a rate of 1.*5%*~~½ percent~~.

(b) "Combined Business Tax Liability" means the sum of the gross receipts tax and the *former* payroll expense tax a person owes for a tax year.

(c) For so long as a particular payroll expense tax exclusion listed under subsection (a) ~~is~~*would have been* in effect *had the payroll expense tax not been repealed*, ~~*without regard to whether the payroll expense tax is otherwise in effect,*~~ a person may credit against its combined business tax liability for a tax year the amount of a particular payroll expense tax exclusion credit to which it would *have* be*en* entitled under the *former* payroll expense tax; however, in no event shall such credit reduce a person's combined business tax liability to less than zero. Any person who claims the credit under this Section *960* must meet all of the eligibility requirements of the *former* payroll expense tax exclusion(s) it claims. The credit may be

claimed against the tax liability only of the person who *would have* qualified for the *former* payroll expense tax exclusion and not against any liability of related entities or other members of that person's combined group.

~~***SEC. 961. CENTRAL MARKET STREET LIMIT.***~~

~~*(a) The "Central Market Street Limit" means a person's payroll expense tax liability for a tax year as determined under the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion under Section 906.3 of Article 12-A, calculated at a rate of 1½ percent.*~~

~~*(b) "Combined Business Tax Liability" means the sum of the gross receipts tax and the payroll expense tax a person owes that is attributable to location(s) in the Central Market Street and Tenderloin Area as defined in Section 906.3(b) of Article 12-A for a tax year under the rates established for that year.*~~

~~*(c) For so long as the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion is in effect, without regard to whether the payroll expense tax is otherwise in effect, a person shall owe the lesser of its combined business tax liability or the amount of its Central Market Street limit. Any person who claims the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion must meet all of the eligibility requirements of that exclusion.*~~

SEC. 965. SAVINGS CLAUSE.

(a) No section, clause, part or provision of this Article *12-A-1* shall be construed as requiring the payment of any tax that would be in violation of the Constitution or laws of the United States or of the Constitution or laws of the State of California. Except as provided in subsection (b) of this Section *965*, if any section, clause, part or provision of this Article, or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of this Article, including the application of such part or provision to other persons or

circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Article are severable.

(b) If the imposition of the gross receipts tax in Section 953~~, or any portion of the rate computation under Section 959, of this Article~~ is held *in its entirety to be facially* invalid or unconstitutional in a final court determination, the remainder of this Article *12-A-1* shall be ~~null and~~ void and of no force and effect*, and the City Attorney shall cause it to be removed from the Business and Tax Regulations Code*. ~~For any tax year for which this Article is invalidated pursuant to this Section, the payroll expense tax provided by Article 12-A may be assessed against any person engaging in business in the City during that tax year as if this Ordinance had not been passed, except that such assessment may be made and collected notwithstanding any statute of limitations provided by Article 6.~~

Section 6. The Business and Tax Regulations Code is hereby amended by adding Article 36, consisting of Sections 3601 through 3616, to read as follows:

ARTICLE 36: COMMERCIAL RENTS TAX

SEC. 3601. SHORT TITLE.

This Article 36 shall be known as the "Commercial Rents Tax Ordinance," and the tax it imposes shall be known as the "Commercial Rents Tax."

SEC. 3602. DEFINITIONS.

(a) Unless otherwise defined in this Article 36, the terms used in this Article shall have the meanings given to them in Articles 6 and 12-A-1 of the Business and Tax Regulations Code, as

amended from time to time. All references to Sections of the Planning Code are to the text of those Sections as of June 5, 2018.

(b) For purposes of this Article 36, the following definitions shall apply:

"Commercial Space" means any building or structure, or portion of a building or structure, that is not "residential real estate," as that term is defined in Section 954.1(c) of Article 12-A-1 of the Business and Tax Regulations Code, as amended from time to time. Notwithstanding the preceding sentence, Commercial Space shall not include any building or structure, or portion of a building or structure, that is used for:

(1) Industrial Use as defined in Section 102 of the Planning Code;

(2) Arts Activities as defined in Section 102 of the Planning Code; or

(3) Retail Sales or Service Activities or Retail Sales or Service Establishments, as defined in Section 303.1(c) of the Planning Code, that are not Formula Retail uses as defined in Section 303.1(b) of the Planning Code.

"Warehouse Space" means Commercial Space that is used for Commercial Storage, for Volatile Materials Storage, for Wholesale Storage, or as a Storage Yard, as each of these capitalized terms is defined in Section 102 of the Planning Code.

SEC. 3603. IMPOSITION OF TAX.

(a) Except as otherwise provided in this Article 36, for the privilege of engaging in the business of leasing Commercial Space in properties in the City, the City imposes an annual Commercial Rents Tax on each person engaged in business within the City that receives gross receipts from the lease of Commercial Space in properties in the City. For purposes of this Article 36, the term "lease" includes any "sublease."

(b) The Commercial Rents Tax shall be calculated by applying the following percentages to the person or combined group's gross receipts from the lease of Commercial Space in properties in the City:

(1) 1% to the person or combined group's gross receipts from the lease of Warehouse Space in properties in the City; and

(2) 3.5% to the person or combined group's gross receipts from the lease of all other Commercial Space in properties in the City.

SEC. 3604. OPERATIVE DATES OF TAX.

If the final judicial decision in San Francisco Superior Court Case No. CGC-18-568657 (Howard Jarvis Taxpayers Association et al. v. City and County of San Francisco et al.) *has the effect of invalidating the Early Care and Education Commercial Rents Tax in Article 21 of the Business and Tax Regulations Code, then the Commercial Rents Tax in this Article 36 shall become operative for tax years beginning on or after January 1 of the tax year following the date on which such court decision becomes final, and shall continue in effect for 15 tax years, after which it shall cease to apply and the City Attorney shall cause this Article 36 to be removed from the Business and Tax Regulations Code.*

SEC. 3605. EXEMPTIONS AND EXCLUSIONS.

(a) An organization that is exempt from income taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the California Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as amended, as qualified by Sections 502, 503, 504, and 508 of the Internal Revenue Code of 1986, as amended, shall be exempt from taxation under this Article 36, only so long as those exemptions continue to exist under state or federal law.

(b) For purposes of this Article 36, gross receipts from the lease of Commercial Space shall not include receipts from the leasing of Commercial Space to: (1) organizations described in subsection (a) of this Section 3605; or (2) federal, state, or local governments.

(c) For purposes of this Article 36, gross receipts from the lease of Commercial Space shall not include receipts from business activities if, and only so long as and to the extent that, the City is prohibited from taxing such receipts under the Constitution or laws of the United States or under the Constitution or laws of the State of California.

(d) For only so long as and to the extent that the City is prohibited from imposing the Commercial Rents Tax, any person upon whom the City is prohibited under the Constitution or laws of the State of California or the Constitution or laws of the United States from imposing the Commercial Rents Tax shall be exempt from the Commercial Rents Tax.

(e) For purposes of this Article 36, gross receipts from the lease of Commercial Space shall not include rent that is subject to the tax imposed under Articles 7 or 9 of the Business and Tax Regulations Code, and shall not include rent that would be subject to the tax imposed under Article 7 or Article 9 but for the exemptions from that tax under Section 506 of Article 7 or Section 606 of Article 9.

SEC. 3606. SMALL BUSINESS EXEMPTION.

Notwithstanding any other provision of this Article 36, a person or combined group exempt from payment of the gross receipts tax under Section 954.1 of Article 12-A-1, as amended from time to time, shall also be exempt from payment of the Commercial Rents Tax.

SEC. 3607. CREDIT FOR CHILD CARE FACILITIES.

(a) Any person subject to the Commercial Rents Tax imposed under this Article 36 that leases or provides Commercial Space in a property in the City for a Qualifying Child Care Facility that operates for more than six months in a tax year shall be allowed a credit against the Commercial Rents

Tax for that tax year. If a person entitled to the credit under this Section 3607 is required to file a Commercial Rents Tax return on a combined basis under Section 3608, the credit may be claimed against the Commercial Rents Tax liability required to be reflected on the combined return for that tax year. In no event shall the credit allowed under this Section 3607 reduce a person or combined group's Commercial Rents Tax liability for any tax year to less than zero, and no credit shall be allowed as a carryforward to a subsequent tax year.

(b) For purposes of this Section 3607, the credit for a tax year shall be based on the total number of Infants, Toddlers, and Preschool-Age Children for which the Qualifying Child Care Facility is licensed by the California Department of Social Services to provide care and shall be in the amount prescribed in the table below.

Number of Infants, Toddlers, and Preschool-Age Children	*Amount of Credit*
1 to 49	*$7,200*
50 to 99	*$16,000*
100 or more	*$36,000*

(c) The following definitions shall apply for purposes of this Section 3607.

(1) "Qualifying Child Care Facility" means a facility that is licensed by the California Department of Social Services, or any successor agency, to provide non-medical care to Infants, Toddlers, Preschool-Age Children, or any combination thereof in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis in a group setting.

(2) "Infants" means children under two years of age.

(3) "Toddlers" means children between the ages of 18 months and 30 months.

(4) "Preschool-Age Children" means children who are enrolled in a child day care center licensed by the California Department of Social Services, or any successor agency, and who are

not enrolled in a child care center or part of a child care center where less than 24-hour per day non-medical care and supervision are provided to Infants or School-Age Children.

(5) "School-Age Child" means a child who has entered the first grade or above or who is in a child care program providing care and supervision exclusively to children enrolled in kindergarten and above.

(d) To be eligible for the credit authorized under this Section 3607, persons wishing to claim the credit must:

(1) Maintain a reasonable method of documentation that can be reviewed or verified objectively that demonstrates that the person is eligible for the credit provided for in this Section 3607, and provide such documentation to the Tax Collector upon request; and

(2) File a timely annual Commercial Rents Tax return regardless of the amount of liability, if any, shown on the return after claiming the credit provided for in this Section 3607.

(e) The Tax Collector shall verify that any credit claimed pursuant to this Section 3607 is correct. The Office of Early Care and Education, or any successor agency, shall provide to the Tax Collector upon request such information that the Tax Collector may require to verify that a Qualifying Child Care Facility for which the credit is claimed meets the eligibility requirements of this Section 3607, and the Tax Collector may share taxpayer information with the Office of Early Care and Education, or any successor agency, for this purpose. To the extent permitted by law, the Office of Early Care and Education, or any successor agency, shall maintain the confidentiality of any such information that the Tax Collector provides, and shall be subject to Section 6.22-1 of Article 6 of the Business and Tax Regulations Code with respect to such information.

(f) The Tax Collector shall submit an annual report to the Board of Supervisors for each year for which the credit authorized under this Section 3607 is available, that sets forth aggregate information on the dollar value of the credits taken each year and the number of persons taking the credit.

SEC. 3608. FILING; COMBINED RETURNS.

(a) Persons subject to the Commercial Rents Tax shall file returns at the same time and in the same manner as returns filed for the gross receipts tax (Article 12-A-1), including the rules for combined returns under Section 956.3, as amended from time to time.

(b) If a person is subject to the Commercial Rents Tax but is not required to file a gross receipts tax return, such person or combined group's Commercial Rents Tax return shall be filed at the same time and in the same manner as if such person or combined group were required to file a gross receipts tax return.

(c) For purposes of this Article 36, a lessor of residential real estate is treated as a separate person with respect to each individual building in which it leases residential real estate units, notwithstanding Section 6.2-15 of Article 6, as amended from time to time, or subsection (a) of this Section 3608. This subsection (c) applies only to leasing residential real estate units within a building, and not to any business activity related to other space, either within the same building or other buildings, which is not residential real estate. The Tax Collector is authorized to determine what constitutes a separate building and the number of units in a building.

SEC. 3609. TAX COLLECTOR AUTHORIZED TO DETERMINE GROSS RECEIPTS.

The Tax Collector may, in his or her reasonable discretion, independently establish a person or combined group's gross receipts from the lease of Commercial Space in properties in the City and establish or reallocate gross receipts among related entities so as to fairly reflect the gross receipts from the lease of Commercial Space in properties in the City of all persons and combined groups.

SEC. 3610. CONSTRUCTION AND SCOPE OF THE COMMERCIAL RENTS TAX ORDINANCE.

(a) This Article 36 is intended to authorize application of the Commercial Rents Tax in the broadest manner consistent with its provisions and with the California Constitution, the United States Constitution, and any other applicable provision of federal or state law.

(b) The Commercial Rents Tax imposed by this Article 36 is in addition to all other City taxes, including the gross receipts tax imposed by Article 12-A-1 of the Business and Tax Regulations Code, as amended from time to time. Accordingly, by way of example and not limitation, persons subject to both the Commercial Rents Tax and the gross receipts tax shall pay both taxes. Persons exempt from either the gross receipts tax or the Commercial Rents Tax, but not both, shall pay the tax from which they are not exempt.

SEC. 3611. ADMINISTRATION OF THE COMMERCIAL RENTS TAX ORDINANCE.

Except as otherwise provided under this Article 36, the Commercial Rents Tax Ordinance shall be administered pursuant to Article 6 of the Business and Tax Regulations Code, as amended from time to time.

SEC. 3612. DEPOSIT OF PROCEEDS.

The Commercial Rents Tax is a general tax. Proceeds of the Commercial Rents Tax are to be deposited in the City's general fund and can be spent for any City purposes.

SEC. 3613. AMENDMENT OF ORDINANCE.

The Board of Supervisors may amend or repeal this Article 36 by ordinance without a vote of the people except as limited by Article XIII C of the California Constitution.

SEC. 3614. EFFECT OF STATE AND FEDERAL AUTHORIZATION.

To the extent that the City's authorization to impose or to collect any tax imposed under this Article 36 is expanded or limited as a result of changes in state or federal statutes, regulations, or other laws, or judicial interpretations of those laws, no amendment or modification of this Article shall be required to conform the taxes to those changes, and the taxes are hereby imposed in conformity with those changes, and the Tax Collector shall collect them to the full extent of the City's authorization up to the full amount and rate of the taxes imposed under this Article.

SEC. 3615. SEVERABILITY.

(a) Except as provided in Section 3615(b), below, if any section, subsection, sentence, clause, phrase, or word of this Article 36, or the application thereof to any person or circumstance, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article, including the application of such portions to other persons or circumstances. The People of the City and County of San Francisco hereby declare that, except as provided in Section 3615(b), they would have adopted each section, subsection, sentence, clause, phrase, and word of this Article not declared invalid or unconstitutional without regard to whether any other portion of this Article would be subsequently declared invalid or unconstitutional.

(b) If the imposition of the Commercial Rents Tax in Section 3603 of this Article 36 is held in its entirety to be facially invalid or unconstitutional in a final judicial decision, the remainder of this Article 36 shall be void and of no force and effect, and the City Attorney shall cause it to be removed from the Business and Tax Regulations Code.

SEC. 3616. SAVINGS CLAUSE.

No section, clause, part, or provision of this Article 36 shall be construed as requiring the payment of any tax that would be in violation of the Constitution or laws of the United States or of the Constitution or laws of the State of California.

Section 7. Notwithstanding Articles 21 and 28 of the Business and Tax Regulations Code, nothing in this ordinance shall increase the amount of any tax imposed under Article 21 or Article 28.

Section 8. Tax Proceeds Subject to Regular Audits. Uses of tax proceeds generated under this ordinance shall be subject to regular audits and performance reviews by the Controller as permitted by Charter Appendix F, which shall be submitted to the Mayor and Board of Supervisors.

Section 9. Appropriations Limit Increase. Pursuant to California Constitution Article XIII B and applicable laws, for four years from November 3, 2020, the appropriations limit for the City shall be increased by the revenues collected under Articles 12-A-1 and 36 of the Business and Tax Regulations Code.

Section 10. The unchanged code text in Section 2 of this ordinance assumes that the Board of Supervisors ordinance with the short title "Business and Tax Regulations Code - Tax Penalties and Interest; Administration of Cannabis Business Tax," amending Section 6.9-3 of

the Business and Tax Regulations Code, is enacted before November 3, 2020. If such ordinance has not been enacted by that time, the City Attorney's Office is directed to make the necessary conforming language changes to Section 6.9-3.

Section 11. Scope of Ordinance. In enacting this ordinance, the People of the City and County of San Francisco intend to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions or deletions, in accordance with the "Note" that appears under the official title of the ordinance.

Section 12. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The People of the City and County of San Francisco hereby declare that they would have adopted this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 13. Effective and Operative Dates.

(a) The effective date of this ordinance shall be ten days after the date the official vote count is declared by the Board of Supervisors.

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(b) The operative date of this ordinance shall be January 1, 2021, except for the repeal of Business and Tax Regulations Code Section 906.3-1 in Section 4 of this ordinance, which shall be operative on February 1, 2021.

* * *

SUBMITTED.

London Breed Date: 6/16/2020

LONDON N. BREED
Mayor, City and County of San Francisco

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Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ **No Comment**

____ **Recommendation Attached**

_____

Chairperson, Small Business Commission